

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION
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6 IN RE: NATIONAL : MDL NO. 2804
7 PRESCRIPTION OPIATE :
8 LITIGATION :
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11 THIS DOCUMENT RELATES TO : CASE NO.
12 ALL CASES : 1:17-MD-2804
13 :-----
14 : Hon. Dan A.
15 : Polster
16 - - -
17

18 January 31, 2019
19 - - -
20

21 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
22 CONFIDENTIALITY REVIEW
23

24 Videotaped deposition of JANET
GETZEY HART taken pursuant to notice, was held at
the law offices of Morgan, Lewis & Bockius LLP,
1701 Market Street, Philadelphia, Pennsylvania,
beginning at 9:38 a.m., on the above date, before
Ann Marie Mitchell, a Federally Approved
Certified Realtime Reporter, Registered Diplomate
Reporter, Registered Merit Reporter and Notary
Public.

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14	Hart- 30(b)(6)- 2	First Notice of Deposition Pursuant to Rule 30(B)(6) and Document Request Pursuant to Rule 30(B)(2) and Rule 34 to Defendant Rite Aid of Maryland, Inc., d/b/a Rite Aid and Mid-Atlantic Customer Support Center, Inc.	18	
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<p>1 THE VIDEOGRAPHER: We're now on 2 the record. My name is David Lane, 3 videographer from Golkow Litigation 4 Services. Today's date is January 31, 5 2019. Our time is 9:38 a.m. This 6 deposition is taking place in 7 Philadelphia, Pennsylvania in the matter 8 of National Opiate Litigation, MDL. 9 Our deponent today is Janet 10 Getzey Hart. Counsel will be noted on 11 the stenographic record. Our court 12 reporter is Ann Marie Mitchell.</p> <p>13 Ms. Hart, I just want to remind 14 you, you're still under oath.</p> <p>15 MR. PIFKO: Can we get people on 16 the phone to just state their name and 17 firm and who they represent real quick?</p> <p>18 MS. LIABO: Hi, this is Miriam 19 Liabo from Jones Day on behalf of 20 Walmart.</p> <p>21 MS. McENROE: Anybody else?</p> <p>22 MS. WATSON: This is Sylvia 23 Watson from Jackson Kelly on behalf of 24 AmeriSource Bergen.</p>	<p>1 Q. So you understand that you're 2 still under oath? Do you understand that?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Yes? Sorry, I spoke over 5 you.</p> <p>6 A. Yes, yes.</p> <p>7 Q. And we'll fast forward through a 8 bunch of the ground rules. I know we covered 9 that yesterday and had your deposition taken.</p> <p>10 So you understand that your 11 testimony here today is under penalty of perjury. 12 Correct?</p> <p>13 MS. McENROE: Objection to form.</p> <p>14 THE WITNESS: I do.</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. And you understand that if you're 17 untruthful or intentionally dishonest in some 18 way, that you could be subject to criminal 19 penalties or civil penalties or some other sort 20 of punishment from the court.</p> <p>21 Do you understand that?</p> <p>22 MS. McENROE: Objection to form.</p> <p>23 THE WITNESS: I do.</p> <p>24 BY MR. PIFKO:</p>
<p>1 MR. PIFKO: Anyone else?</p> <p>2 MR. MALOY: This is John Maloy 3 from Morgan Lewis on behalf of Rite Aid.</p> <p>4 MR. PIFKO: Anyone else? 5 - - -</p> <p>6 JANET GETZEY HART, after having 7 been previously duly sworn, continued to 8 be examined and testified as follows: 9 - - -</p> <p>10 EXAMINATION 11 - - -</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. All right. Now that we got that 14 out of the way.</p> <p>15 My name is Mark Pifko. We kind 16 of met yesterday a little bit. I'm going to be 17 asking you some questions today. I represent the 18 plaintiffs in the litigation.</p> <p>19 MR. PIFKO: So -- was she 20 administered the oath?</p> <p>21 THE REPORTER: She's still under 22 oath from yesterday.</p> <p>23 MR. PIFKO: Okay.</p> <p>24 BY MR. PIFKO:</p>	<p>1 Q. Is there any reason why you can't 2 provide truthful and accurate testimony today?</p> <p>3 A. There is not.</p> <p>4 Q. Do you have any medical 5 condition, are you taking any medication or 6 undergoing any sort of treatment that would 7 impact your ability to tell the truth?</p> <p>8 A. No.</p> <p>9 Q. Are you taking any medication or 10 suffering from any condition that would impact 11 your memory?</p> <p>12 A. No.</p> <p>13 Q. From time to time, I'm obviously 14 going to be asking you, as you know from 15 yesterday, about past events. Okay? And I don't 16 want you to guess, but I do -- I am entitled to 17 your best recollection of events. Okay?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. You intend to provide that 20 today?</p> <p>21 A. I do.</p> <p>22 Q. All right. So one other thing 23 that's different today, we'll get into it in just 24 a moment, as opposed to yesterday, is that</p>

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1 today's deposition, you are providing testimony 2 on behalf of the company. 3 Do you understand that? 4 A. I do. 5 Q. Okay. So when I ask you 6 questions -- I'm going to hand you a notice in a 7 minute and there's some topics. 8 When I ask you questions within 9 those topics, you're going to be providing 10 testimony on behalf of the company, not just you. 11 Do you understand that? 12 A. I do. 13 Q. All right. Let's start by 14 handing you that document. I'm sure that you saw 15 it in preparing for today's deposition. 16 - - - 17 (Deposition Exhibit No. 18 Hart-30(b)(6)-1, Second Notice of 19 Deposition Pursuant to Rule 30(B)(6) and 20 Document Request Pursuant to Rule 21 30(B)(2) and Rule 34 to Defendant Rite 22 Aid of Maryland, Inc., d/b/a Rite Aid and 23 Mid-Atlantic Customer Support Center, 24 Inc., was marked for identification.)	1 A. Months ago. 2 Q. Sometime in the third quarter of 3 last year? 4 A. Seems familiar, yes. 5 Q. So you see if you -- there's 6 numbered pages on the bottom. 7 If you turn to the page that's 8 numbered 6, it's got "Subject Matters for 9 Testimony," letters A through O. 10 Do you see that? 11 MS. McENROE: I think you may be 12 looking at notice 1 and you may have 13 handed us notice 2. That may be what's 14 going on. 15 The second notice is the one that 16 you handed us. 17 MR. PIFKO: That's Will's fault. 18 We can hand her both of them. 19 I'll ask you some questions about that. 20 I'll hand you notice 1 in just a 21 minute. Thanks for clarifying. 22 BY MR. PIFKO: 23 Q. So with respect to notice 2, you 24 see that there's topics that start on -- well,
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1 - - - 2 BY MR. PIFKO: 3 Q. I'm handing you what's marked as 4 Hart-30(b)(6) Exhibit 1, which is a copy of a 5 deposition notice. 6 Have you seen this before? Take 7 a minute to look at it. 8 MS. McENROE: Mark, if it would 9 help, I'm happy to stipulate to which 10 topics from the second notice -- 11 MR. PIFKO: Yeah, I'm going to 12 ask her. I have got your letter in front 13 of me. 14 MS. McENROE: Great. Thank you. 15 THE WITNESS: I'm fine. 16 BY MR. PIFKO: 17 Q. All right. Have you seen this 18 before? 19 A. I have. 20 Q. When was the last time you saw 21 this? 22 A. Within the past few days. 23 Q. Okay. When was the first time 24 you recall seeing this?	1 they do the same thing. They start on page 6 2 here. 3 Do you see that? 4 A. I do. 5 Q. Okay. And they go through page 6 11. 7 Do you see that? 8 A. I do. 9 Q. So looking at this -- this is 10 called the second notice. 11 Do you understand yourself to be 12 designated for topics 6, 12, 17, 18, 20, 21 and 13 22? 14 A. 6, 12 -- what were the other 15 numbers? 16 Q. 17, 18, 20, 21 and 22. 17 MS. McENROE: Just preserving for 18 the record that 20, 21 and 22 are as 19 modified by a ruling from Special Master 20 Cohen. 21 THE WITNESS: I do. 22 BY MR. PIFKO: 23 Q. Is there any reason why you can't 24 provide testimony on those topics today?

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<p>1 A. There is not.</p> <p>2 Q. Let's look at the first notice.</p> <p>3 - - -</p> <p>4 (Deposition Exhibit No.</p> <p>5 Hart-30(b)(6)-2, First Notice of</p> <p>6 Deposition Pursuant to Rule 30(B)(6) and</p> <p>7 Document Request Pursuant to Rule</p> <p>8 30(B)(2) and Rule 34 to Defendant Rite</p> <p>9 Aid of Maryland, Inc., d/b/a Rite Aid and</p> <p>10 Mid-Atlantic Customer Support Center,</p> <p>11 Inc., was marked for identification.)</p> <p>12 - - -</p>	<p>1 would have been around a few months ago, like the</p> <p>2 other notice, roughly?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. If you turn to page 6 of</p> <p>5 Exhibit 2, you see there's a bunch of letter</p> <p>6 topics that goes from page 6 to page 7.</p> <p>7 Are you there?</p> <p>8 A. I am.</p> <p>9 Q. Do you understand yourself to be</p> <p>10 designated to speak on behalf of the company with</p> <p>11 respect to topics A through N?</p> <p>12 Take a minute to look at them.</p>
<p>13 BY MR. PIFKO:</p> <p>14 Q. Which is marked as Exhibit 2.</p> <p>15 Take a moment to review that and</p> <p>16 let me know when you're done.</p> <p>17 A. (Reviewing document.)</p> <p>18 Okay.</p> <p>19 Q. Have you seen Exhibit 2 before?</p> <p>20 A. I have.</p> <p>21 Q. When was the last time you saw</p> <p>22 Exhibit 2?</p> <p>23 A. Within the past few days.</p> <p>24 Q. When was the first time you</p>	<p>13 A. I do.</p> <p>14 Q. Is there any reason why you can't</p> <p>15 provide testimony on behalf of the company with</p> <p>16 respect to topics A through N in Exhibit 2?</p> <p>17 A. There is not.</p> <p>18 Q. Do you know what diversion is?</p> <p>19 MS. McENROE: Objection to form.</p> <p>20 THE WITNESS: I do.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. What's your understanding of what</p> <p>23 diversion is?</p> <p>24 A. Diversion is any time that a</p>
<p>1 believe you saw Exhibit 2?</p> <p>2 A. I don't remember when I first saw</p> <p>3 it.</p> <p>4 Q. Do you believe it would have been</p> <p>5 on or around the same time you saw Exhibit 1?</p> <p>6 A. A little after. Oh, this one</p> <p>7 here is Exhibit 1 that we're talking about now?</p> <p>8 Q. I'm asking about Exhibit 2.</p> <p>9 A. Okay. Exhibit 2 is the first</p> <p>10 notice, though. Right?</p> <p>11 Q. Right.</p> <p>12 A. So I would have saw the first</p> <p>13 notice before the second notice.</p> <p>14 Q. Okay. That's your recollection,</p> <p>15 is that you saw the first one before you saw the</p> <p>16 second one?</p> <p>17 A. I believe so.</p> <p>18 Q. Just so you know, they're dated</p> <p>19 the same day.</p> <p>20 Does that refresh your</p> <p>21 recollection at all about when you saw them?</p> <p>22 A. It does not.</p> <p>23 Q. Okay. All right. Well, you see</p> <p>24 on page 6 -- well, so you believe, though, it</p>	<p>1 controlled substance gets out of the normal</p> <p>2 channel of controlled substance delivery to a</p> <p>3 patient, not to the patient based upon a valid</p> <p>4 medical intent.</p> <p>5 Q. Do you understand that Rite Aid</p> <p>6 has a duty to prevent diversion?</p> <p>7 MS. McENROE: Objection, calls</p> <p>8 for a legal conclusion.</p> <p>9 THE WITNESS: I do.</p> <p>10 BY MR. PIFKO:</p> <p>11 Q. Do you understand that during</p> <p>12 certain relevant time periods to this case, Rite</p> <p>13 Aid was a, what's called a distributor under the</p> <p>14 Controlled Substances Act?</p> <p>15 A. I do.</p> <p>16 Q. What's your understanding of how</p> <p>17 Rite Aid fit into a definition of a distributor</p> <p>18 under the Controlled Substances Act?</p> <p>19 MS. McENROE: Objection to form.</p> <p>20 THE WITNESS: Rite Aid</p> <p>21 distributed its Schedule III, IV and V</p> <p>22 controlled substances to our various Rite</p> <p>23 Aid locations.</p> <p>24 BY MR. PIFKO:</p>

<p style="text-align: right;">Page 22</p> <p>1 Q. And Rite Aid purchased those 2 products directly from manufacturers? 3 A. I believe so, yes. 4 Q. And then warehoused them and 5 ultimately shipped them to its stores? 6 A. That is correct. 7 Q. And so you understand as a 8 distributor that Rite Aid had a duty to prevent 9 diversion. Correct? 10 MS. McENROE: Objection to form. 11 THE WITNESS: I do. 12 BY MR. PIFKO: 13 Q. And do you also have an 14 understanding that Rite Aid had a duty to 15 identify, report and halt the shipment of 16 suspicious orders? 17 MS. McENROE: Objection to form. 18 THE WITNESS: I do. 19 BY MR. PIFKO: 20 Q. Okay. And do you know what a 21 suspicious order is? 22 A. I do. 23 Q. What is a suspicious order? 24 A. A suspicious order is an unusual</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. And is that consistent with Rite 2 Aid's understanding of why we want to prevent 3 diversion? 4 A. It is. 5 Q. I believe -- I was just looking 6 for it, but I couldn't find it, but I believe 7 that's in one of Rite Aid's policy documents. 8 Do you recall seeing that? 9 A. I do. 10 Q. So you agree that that's a stated 11 policy of Rite Aid, is that they want to prevent 12 diversion because they want to protect the public 13 health. Correct? 14 MS. McENROE: Objection to form. 15 THE WITNESS: I'm not sure if 16 it's part of a policy or a statement or 17 whatever, but yes. 18 BY MR. PIFKO: 19 Q. All right. You understand that 20 Rite Aid has a duty to -- we talked earlier, to 21 identify, report and halt the shipment of any 22 suspicious orders that it may find in its system. 23 Correct? 24 MS. McENROE: Objection to form.</p>
<p style="text-align: right;">Page 23</p> <p>1 frequency, an unusual pattern, orders of that 2 nature. 3 Q. Bear with me a second here. 4 Do you understand the purpose for 5 which Rite Aid, as a registrant under the 6 Controlled Substances Act, has a duty to prevent 7 diversion? 8 MS. McENROE: Objection to form. 9 THE WITNESS: I do. 10 BY MR. PIFKO: 11 Q. What's your understanding of what 12 that purpose is? 13 A. Our purpose is to make sure the 14 controlled substances are kept in the normal 15 channel of distribution and dispensing to the end 16 patient, make sure that it does not end in the 17 hands of any other one that's not in that 18 distribution channel. 19 Q. Do you understand that one of the 20 purposes of preventing diversion is to protect 21 the public health? 22 MS. McENROE: Objection to form. 23 THE WITNESS: I do. 24 BY MR. PIFKO:</p>	<p style="text-align: right;">Page 25</p> <p>1 THE WITNESS: I do. 2 BY MR. PIFKO: 3 Q. And did you also understand that 4 Rite Aid has a duty to design a system to 5 identify suspicious orders. Correct? 6 MS. McENROE: Objection to form. 7 And Mark, this is pretty heavily on the 8 legal interpretation end, from which 9 Special Master Cohen specifically ruled 10 the topics do not cover, despite how 11 they're drafted. So I just wanted to 12 make sure that we don't go too far down 13 that road. 14 THE WITNESS: Could you repeat 15 the question? 16 BY MR. PIFKO: 17 Q. Yeah. 18 I was just asking, you understand 19 that Rite Aid has a duty to design and maintain a 20 system to identify and report suspicious orders. 21 Correct? 22 MS. McENROE: Objection to form. 23 THE WITNESS: I do. 24 BY MR. PIFKO:</p>

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<p>1 Q. Did Rite Aid have such a system?</p> <p>2 A. We did.</p> <p>3 Q. When did Rite Aid first design a</p> <p>4 system to identify and report and halt the</p> <p>5 shipment of suspicious orders?</p> <p>6 A. I came into the Rite Aid</p> <p>7 corporate office in 1995. And at that point</p> <p>8 there was a program to report suspicious orders.</p> <p>9 Q. How about a program to identify</p> <p>10 suspicious orders?</p> <p>11 A. I think same time.</p> <p>12 Q. Do you know anything about who</p> <p>13 designed the system that you're describing to</p> <p>14 identify and report suspicious orders?</p> <p>15 A. I do not.</p> <p>16 Q. Okay. But it's your testimony</p> <p>17 that that system was in place in 1995?</p> <p>18 A. Yes.</p> <p>19 Q. Were there any changes to that</p> <p>20 system? You've been employed by, we discussed</p> <p>21 yesterday, by Rite Aid since the '80s; is that</p> <p>22 correct?</p> <p>23 MS. McENROE: Objection to form.</p> <p>24 THE WITNESS: Yes.</p>	<p>1 the question?</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. Yeah.</p> <p>4 Do you believe that there's never</p> <p>5 been a suspicious order that has occurred within</p> <p>6 Rite Aid's distribution center -- system?</p> <p>7 MS. McENROE: Objection to form.</p> <p>8 THE WITNESS: I do.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. So it's your testimony that</p> <p>11 there's never been a suspicious order that's</p> <p>12 occurred within Rite Aid's distribution of</p> <p>13 Schedule III controlled substances?</p> <p>14 MS. McENROE: Objection to form.</p> <p>15 THE WITNESS: I do.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. Are you familiar with the</p> <p>18 scheduling of controlled substances?</p> <p>19 A. I am.</p> <p>20 Q. Are you aware of -- that there's</p> <p>21 Schedule I through VI?</p> <p>22 A. Schedule I through V.</p> <p>23 Q. I'm sorry, I through V, yes.</p> <p>24 A. Yes.</p>
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<p>1 MS. McENROE: It's okay. Give me</p> <p>2 time to get my objections in.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. So you're familiar with Rite</p> <p>5 Aid's policies and procedures with respect to</p> <p>6 suspicious orders and preventing diversion.</p> <p>7 Correct?</p> <p>8 A. Yes.</p> <p>9 Q. And are you familiar with whether</p> <p>10 there are any changes to Rite Aid's system to</p> <p>11 identify and report suspicious orders from 1995</p> <p>12 to present?</p> <p>13 A. I believe that the system itself</p> <p>14 has been in place. There has been minor changes</p> <p>15 or tweaks along the way, but the basics of the</p> <p>16 system have remained the same.</p> <p>17 Q. To your knowledge, has Rite Aid</p> <p>18 ever identified a suspicious order?</p> <p>19 A. We have not.</p> <p>20 Q. Do you believe that there's never</p> <p>21 been a suspicious order that's occurred within</p> <p>22 Rite Aid's distribution system?</p> <p>23 MS. McENROE: Objection to form.</p> <p>24 THE WITNESS: Could you repeat</p>	<p>1 Q. Okay. Keeping you on your toes.</p> <p>2 Do you have an understanding</p> <p>3 about what the differences are as you move along</p> <p>4 the schedules?</p> <p>5 A. I do.</p> <p>6 MS. McENROE: Objection to form.</p> <p>7 BY MR. PIFKO:</p> <p>8 Q. From I to V?</p> <p>9 MS. McENROE: Objection to form.</p> <p>10 THE WITNESS: I do.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. What is your understanding of the</p> <p>13 difference between a Schedule I controlled</p> <p>14 substance and a Schedule V controlled substance?</p> <p>15 MS. McENROE: Just real quick, I</p> <p>16 want to make sure I understand.</p> <p>17 Which topic is this part of?</p> <p>18 MR. PIFKO: I'm asking the</p> <p>19 questions. I don't need to identify the</p> <p>20 topics.</p> <p>21 MS. McENROE: I understand. So</p> <p>22 you're asking topics from a 30(b)(6)</p> <p>23 witness designated for specific</p> <p>24 testimony.</p>

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<p>1 MR. PIFKO: You can object to 2 scope, but I'm going to ask the 3 questions.</p> <p>4 MS. McENROE: I can object to 5 scope. I'm just trying to understand 6 where you're going with this, so --</p> <p>7 MR. PIFKO: I'm asking her 8 questions.</p> <p>9 MS. McENROE: -- if you're just 10 laying the basis for something in scope, 11 then that's fine, Mark. But I just want 12 to make sure that we're not going to 13 spend all day, she's a talented 14 pharmacist with a lot of experience, 15 getting every dot of the Controlled 16 Substances Act, make sure that we're 17 staying within the nature of the topics.</p> <p>18 So that all being said, I will 19 say objection to scope.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. All right. So let's go back to 22 my question.</p> <p>23 Do you understand the difference 24 between a Schedule I substance and a Schedule V</p>	<p>1 less potential for that, yes.</p> <p>2 Q. And Rite Aid was a distributor of 3 Schedule III controlled substances. Correct?</p> <p>4 MS. McENROE: Objection to form.</p> <p>5 THE WITNESS: We were.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. But you also sold Schedule II 8 controlled substances. Correct?</p> <p>9 MS. McENROE: Objection to form.</p> <p>10 I just want to make sure we are 11 clear in which "you" we are using here. 12 So she is here testifying as a 30(b)(6) 13 witness for Rite Aid Maryland, Inc., 14 doing business as Mid-Atlantic Customer 15 Support Center, which is the Perryman 16 Distribution Center. So I just want to 17 make sure the witness is not going to be 18 getting confused or misled that it's her 19 personally or the Rite Aid family of 20 companies.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. You understand that Rite Aid 23 Corporation operates pharmacies, correct, through 24 its various subsidiaries?</p>
<p>1 substance?</p> <p>2 MS. McENROE: Objection to form.</p> <p>3 THE WITNESS: I do.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. What is your understanding of the 6 difference between those substances, as you move 7 through the scale?</p> <p>8 A. Schedule I has an abusive -- has 9 the most abusive properties. They are typically 10 the illicit drugs. Schedule V is the least 11 addictive, and they are the products that may be 12 able to be sold over the counter.</p> <p>13 Q. And so as you moved down the 14 scale, there's -- all these substances have been 15 identified by the government as having a 16 potential for abuse. Correct?</p> <p>17 MS. McENROE: Objection to form.</p> <p>18 THE WITNESS: Abuse, addiction, 19 yes.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. And as you move down the scale, 22 there's a lower potential for abuse and 23 addiction; is that correct?</p> <p>24 A. As you go to Schedule V, there is</p>	<p>1 A. I do.</p> <p>2 Q. And those pharmacies sell 3 Schedule II substances. Correct?</p> <p>4 A. Those pharmacies dispense 5 Schedule II controlled substances.</p> <p>6 Q. And they also sell Schedule III 7 substances. Correct?</p> <p>8 A. Yes.</p> <p>9 Q. So we talked about the system for 10 identifying, reporting and halting the shipments 11 of suspicious orders.</p> <p>12 You said that there was a system 13 in place in 1995. Correct?</p> <p>14 A. Yes.</p> <p>15 Q. And then I asked you if there 16 were changes over the years. And you said there 17 might have been some little changes, but the 18 basic functions of the system have been the same; 19 is that correct?</p> <p>20 A. That is correct.</p> <p>21 Q. All right. So can you tell me 22 what are the basic functions or features of the 23 Rite Aid system to identify, report and halt the 24 shipment of suspicious orders?</p>

<p style="text-align: right;">Page 34</p> <p>1 MS. McENROE: Objection to form. 2 THE WITNESS: I can. 3 BY MR. PIFKO: 4 Q. All right. Let's start with the 5 first element of Rite Aid's system. 6 And let's talk about what was in 7 place in 1995, and then we'll move through and 8 talk about any potential changes. Okay? 9 MS. McENROE: Objection in terms 10 of scope of the time period. Discovery 11 starts in this case in 2006 for the 12 relevant purposes. So I know the witness 13 said that she started in this role in 14 1995, but I just want to make sure we 15 don't end up spending all day on portions 16 of discovery that are not even within 17 scope. 18 BY MR. PIFKO: 19 Q. Do you recall my question? 20 A. Please repeat it. 21 Q. All right. 22 MR. PIFKO: Do you recall Special 23 Master Cohen ordered objections to stay 24 under 10 seconds, so let's try to</p>	<p style="text-align: right;">Page 36</p> <p>1 report and halt the shipment of suspicious 2 orders? 3 MS. McENROE: Objection to form. 4 Yeah. We're here giving 30(b)(6) 5 testimony on behalf of the distribution 6 center that I mentioned earlier. You 7 know, in terms of -- that distribution 8 center wasn't even in existence in 1997, 9 Mark. So I'm worried that we're really 10 going far afield here on a number of 11 different avenues. 12 BY MR. PIFKO: 13 Q. Can you answer the question? 14 MS. McENROE: Objection on 15 multiple grounds. 16 THE WITNESS: I can. 17 BY MR. PIFKO: 18 Q. Okay. So let's start. 19 What was the first feature of the 20 system? 21 A. The Rite Aid suspicious order 22 monitoring program had various features to it. 23 One of the features was a threshold quantity of 24 5,000 dosage units for any single NDC, National</p>
<p style="text-align: right;">Page 35</p> <p>1 remember that rule. 2 MS. McENROE: I talk real fast. 3 I think it was under 10 seconds. 4 MR. PIFKO: All right. 5 BY MR. PIFKO: 6 Q. What I asked you was to identify 7 the features of Rite Aid's system to identify, 8 report and halt the shipment of suspicious 9 orders. Okay? 10 A. Okay. 11 Q. And what we talked about is you 12 said you're familiar with the system that was in 13 place from 1995 until present. Correct? 14 A. Correct. 15 Q. Okay. And so what I want you to 16 do is start with the features of the system that 17 you're familiar with from the earliest time frame 18 from which you're familiar, which you said was 19 1995. Correct? 20 A. Correct. 21 Q. And then we'll go through various 22 changes that may have occurred over the years. 23 So let's start in 1995, what's 24 the first step in Rite Aid's system to identify,</p>	<p style="text-align: right;">Page 37</p> <p>1 Drug Code, product per order. 2 Q. Do you know how that threshold 3 was calculated? 4 A. As far as how was it established? 5 Q. Right. 6 A. I do not know. 7 Q. Do you know why 5,000 was picked? 8 A. I do not know. 9 Q. Throughout the entirety of your 10 knowledge, that threshold was the same. Correct? 11 A. That threshold remained the same 12 until we stopped distributing controlled 13 substances in 2014. 14 Q. So from 1995 to 2014, the 15 threshold was always 5,000 dosage units per NDC? 16 MS. McENROE: Objection to form. 17 BY MR. PIFKO: 18 Q. Per week? Per order? Sorry. 19 A. That is correct. 20 Q. And what was the same threshold 21 at all stores, with a handful of exceptions. 22 Correct? 23 MS. McENROE: Objection to form. 24 THE WITNESS: That is correct.</p>

<p style="text-align: right;">Page 38</p> <p>1 BY MR. PIFKO:</p> <p>2 Q. Do you know approximately how 3 many stores had exceptions to that threshold?</p> <p>4 A. My guess would be less than a 5 dozen.</p> <p>6 Q. Can you name them?</p> <p>7 A. I can name a few. Rite Aid 777.</p> <p>8 I believe Rite Aid number 408. Those are the two 9 that I remember.</p> <p>10 Q. Do you know where those are 11 located? How about 777, where is that located?</p> <p>12 A. It was located in New Jersey.</p> <p>13 Q. How about 408?</p> <p>14 A. I don't know where that one is 15 located.</p> <p>16 Q. You can't recall any others?</p> <p>17 A. There were others with 18 exceptions. I believe yesterday we discussed 19 3151.</p> <p>20 Q. Do you know where that store is 21 located?</p> <p>22 A. Ohio.</p> <p>23 Q. Do you know where in Ohio?</p> <p>24 A. I believe Akron.</p>	<p style="text-align: right;">Page 40</p> <p>1 A. I don't recall being a part of 2 those discussions.</p> <p>3 Q. Do you know what the nature of 4 those discussions were with the logistics team to 5 change those numbers?</p> <p>6 MS. McENROE: Objection to form.</p> <p>7 THE WITNESS: I do not.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. Do you know why they were having 10 such discussions?</p> <p>11 MS. McENROE: Objection to form.</p> <p>12 THE WITNESS: I think part of it 13 always to look at the program and 14 determine if it's adequate or not.</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. And was at some point someone was 17 concerned that it wasn't adequate?</p> <p>18 MS. McENROE: Objection to form.</p> <p>19 THE WITNESS: No. I did not say 20 that. I said they were looking at it to 21 continue to make sure that it was 22 adequate.</p> <p style="text-align: center;">- - -</p> <p style="text-align: right;">(Deposition Exhibit No.)</p>
<p style="text-align: right;">Page 39</p> <p>1 Q. Any others?</p> <p>2 A. Those are the ones that I 3 remember.</p> <p>4 Q. So that's a feature of Rite Aid's 5 suspicious order monitoring system. And that 6 feature has been the same over the entirety of 7 your knowledge up to and including 2014, when you 8 stopped distributing Schedule III controlled 9 substances. Correct?</p> <p>10 MS. McENROE: Objection to the 11 form.</p> <p>12 THE WITNESS: To the best of my 13 knowledge, yes.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. Were there ever any discussions 16 about changing that number?</p> <p>17 MS. McENROE: Objection to form.</p> <p>18 THE WITNESS: I don't recall any 19 discussions. There may have been 20 discussions within the logistics team to 21 change the number.</p> <p>22 BY MR. PIFKO:</p> <p>23 Q. Were you part of any of those 24 discussions?</p>	<p style="text-align: right;">Page 41</p> <p>1 Hart-30(b)(6)-3, Email chain, top one 2 dated 2010-11-24, Bates stamped 3 Rite_Aid_OMDL_0046695, was marked for 4 identification.)</p> <p style="text-align: center;">- - -</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. I'm handing you what's marked as 8 Exhibit 3.</p> <p>9 For the record, Exhibit 3 is a 10 single page document Bates labeled 11 Rite_Aid_OMDL_0046695.</p> <p>12 Let me know -- take a minute to 13 review that and let me know when you're done.</p> <p>14 A. (Reviewing document.)</p> <p>15 Q. Are you ready?</p> <p>16 A. I'm ready.</p> <p>17 Q. Have you seen this before?</p> <p>18 A. I have.</p> <p>19 Q. When was the last time you saw 20 this?</p> <p>21 A. Within the past few days.</p> <p>22 Q. Is this something you reviewed in 23 preparing for your 30(b)(6) deposition?</p> <p>24 A. Yes.</p>

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1 Q. In preparing for the 30(b)(6)
2 deposition, did you discuss this document with
3 anyone from the company?
4 A. From Rite Aid?
5 Q. Yes.
6 A. I did not.
7 Q. Who is Owen McMahon?
8 A. Owen, at this time, was our
9 senior director of generic purchasing and
10 specialty programs.
11 Q. Is he still with the company?
12 A. He is.
13 Q. What's his current role?
14 A. Vice president of pharmacy
15 purchasing in some capacity.

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<p style="text-align: right;">Page 54</p> <p>1 a duty to know that the theft is occurring and 2 factor that into their evaluation of whether 3 they're shipping orders to a specific store?</p> <p>4 MS. McENROE: Objection to form.</p> <p>5 THE WITNESS: I believe Rite Aid 6 has a duty, from a pharmacy registrant 7 perspective, to identify theft and 8 diversion and to follow DEA protocol and 9 report it.</p> <p>10 From the distribution side, 11 there -- just because simply a store has 12 diversion of an associate does not mean 13 that an order would be suspicious.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. Have you heard the term "know 16 your customer"?</p> <p>17 A. I have.</p> <p>18 Q. What's your understanding of what 19 that teams?</p> <p>20 MS. McENROE: Objection, form.</p> <p>21 THE WITNESS: Know your customer 22 is that you identify everyone that you 23 ship to. In the course of Rite Aid, our 24 customers are ourselves. To know your</p>	<p style="text-align: right;">Page 56</p> <p>1 flags are, yes.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. What's your understanding of what 4 red flags of diversion are?</p> <p>5 MS. McENROE: Objection to form.</p> <p>6 THE WITNESS: Red flags are 7 identified by the Drug Enforcement 8 Administration for a pharmacist when 9 dispensing a controlled substance 10 prescription. There are numerous red 11 flags. They include, does the pharmacist 12 know the patient, is it a known patient. 13 They include, does the pharmacist know 14 the prescriber, is it a known prescriber. 15 They include a valid patient relationship 16 between the prescriber and the patient. 17 It also requires you to check to 18 determine, from a red flag standpoint, is 19 it in the geographic area. They 20 require -- a red flag can be to look at a 21 prescription to determine if it was a 22 forged prescription or not, to determine 23 if perhaps another pharmacy had declined 24 to fill and had noted on the</p>
<p style="text-align: right;">Page 55</p> <p>1 customer, you should make sure that their 2 licenses are correct. You should make 3 sure that they have a physical building 4 that is licensed by the Board of 5 Pharmacy. You should make sure that they 6 have a DEA registration. Knowing your 7 customer is making sure that they are 8 registered, that they are a pharmacy, and 9 they are entitled to be able to receive 10 and dispense controlled substances.</p> <p>11 In Rite Aid's case, our customer 12 is ourselves. So from a licensing 13 perspective, the licensing coordinator is 14 in our corporate office. And so we know 15 the stores are licensed. We know the 16 whole process.</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. This question came up yesterday, 19 so I know you know the answer, but I'll ask you 20 for purposes of the 30(b)(6).</p> <p>21 Do you know what red flags of 22 diversion are?</p> <p>23 MS. McENROE: Objection to form.</p> <p>24 THE WITNESS: I know what red</p>	<p style="text-align: right;">Page 57</p> <p>1 prescription. Red flag would be to make 2 sure that the prescription was issued for 3 a valid medical reason by a prescriber in 4 the course of their due diligence and 5 their specialty.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. Did Rite Aid ever consider any 8 red flags of diversion with respect to whether it 9 was going to fill an order placed by any of its 10 pharmacies for a Schedule III controlled 11 substance?</p> <p>12 MS. McENROE: Objection to form.</p> <p>13 THE WITNESS: Rite Aid and all of 14 our pharmacies identify red flags. If a 15 red flag is identified, the prescription 16 is not filled at that particular time and 17 declined and provided back to the 18 patient. Should that be -- should there 19 be a red flag that meets our criteria, it 20 would not be dispensed.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. Do you believe that theft is one 23 of the red flags of diversion?</p> <p>24 MS. McENROE: Objection to form.</p>

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<p>1 THE WITNESS: Theft is not a red 2 flag of the prescription processing. 3 Part of theft is diversion, yes, but 4 involved in the red flag process, it's 5 not diversion as such in a red flag 6 process.</p> <p>7 BY MR. PIFKO:</p> <p>8 Q. When I asked you about "know your 9 customer," do you believe that the 10 know-your-customer requirement includes a 11 requirement to know about whether the red flags 12 of diversion are occurring at your customer's 13 location?</p> <p>14 MS. McENROE: Objection to form.</p> <p>15 THE WITNESS: I believe know your 16 customer, yes, would include if the 17 pharmacies are following the red flags 18 process.</p> <p>19 BY MR. PIFKO:</p> <p>20 Q. Okay. And so with respect to 21 Rite Aid's duty to prevent diversion and to 22 identify suspicious orders, did Rite Aid have any 23 system in place to consider red flags of 24 diversion when an order was placed at any of its</p>	<p>1 MS. McENROE: Objection to form. 2 THE WITNESS: I would never say 3 in every instance.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. Okay. In most instances? 6 A. In the majority, yes.</p> <p>7 MS. McENROE: Objection to form. 8 Mark, we've been going about an 9 hour.</p> <p>10 Are you looking for a break, too?</p> <p>11 THE WITNESS: (Witness nods 12 head.)</p> <p>13 MS. McENROE: Okay. The witness 14 is asking for a break, too.</p> <p>15 MR. PIFKO: Okay.</p> <p>16 THE VIDEOGRAPHER: Going off the 17 record at 10:27 a.m.</p> <p>18 - - -</p> <p>19 (A recess was taken from 20 10:27 a.m. to 10:41 a.m.)</p> <p>21 - - -</p> <p>22 THE VIDEOGRAPHER: We're back on 23 the record at 10:41 a.m.</p> <p>24 BY MR. PIFKO:</p>
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<p>1 pharmacies?</p> <p>2 MS. McENROE: Objection to form.</p> <p>3 THE WITNESS: If red flags were 4 identified when a prescription was being 5 dispensed, the prescription would not be 6 dispensed. So that would not result in 7 an order to the distribution center.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. So it's your testimony that in 10 every instance throughout the relevant time 11 period, if a red flag occurred, it was always 12 caught and observed at the pharmacy and never 13 resulted in a prescription being dispensed?</p> <p>14 MS. McENROE: Objection to form.</p> <p>15 THE WITNESS: Can you repeat 16 that, please?</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. Yes.</p> <p>19 So my question is, it's your 20 testimony that is it -- are you saying that in 21 every instance throughout the relevant time 22 period, if a red flag occurred, it was always 23 caught and observed at the pharmacy, and that 24 prescription was never dispensed?</p>	<p>1 Q. Welcome back. 2 Okay. Before we took a break, we 3 were talking about red flags of diversion and 4 knowing your customer. Okay?</p> <p>5 A. Yes.</p> <p>6 Q. Do you remember that? 7 So I was asking you if there was 8 a way that Rite Aid factors in the red flags of 9 diversion into a suspicious order that could be 10 placed -- or, sorry, an order that could be 11 placed.</p> <p>12 MS. McENROE: Objection to form.</p> <p>13 BY MR. PIFKO:</p> <p>14 Q. Do you recall that discussion?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And am I correct that your 17 testimony was that Rite Aid factors in red flags 18 of diversion into its order system because the 19 pharmacist would identify that and that 20 prescription would never be filled; is that 21 correct?</p> <p>22 MS. McENROE: Objection to form.</p> <p>23 THE WITNESS: Could you do that 24 again, please?</p>

<p style="text-align: right;">Page 62</p> <p>1 BY MR. PIFKO:</p> <p>2 Q. Yep.</p> <p>3 My question is -- well, why don't 4 you just tell me. How does Rite Aid factor red 5 flags of diversion into an order for a Schedule 6 III controlled substance?</p> <p>7 MS. McENROE: Objection to form.</p> <p>8 THE WITNESS: If there was a red 9 flag that was identified for a 10 prescription in a pharmacy, the 11 pharmacist has the ability to assess that 12 prescription and determine if their 13 prescription should be filled or not. 14 Simply because there's one red flag 15 doesn't mean that the prescription should 16 not be filled.</p> <p>17 That being said, if there's a red 18 flag and the prescription is not filled, 19 and the pharmacist refuses to fill it, 20 there's no way that that's ever going to 21 get to be an order to go to the 22 distribution center, because at that 23 point, there's no dispensing of the drug. 24 There's no need for replenishment from</p>	<p style="text-align: right;">Page 64</p> <p>1 prescription presented with red flags, 2 yes.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. And you agree that that's not 5 always caught by a pharmacist. Correct?</p> <p>6 MS. McENROE: Objection to form.</p> <p>7 THE WITNESS: The majority of the 8 time it would be caught. But, yes, there 9 are instances where a red flag is not 10 caught or red flags are not caught.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. So my question is, in these 13 instances where red flags are not caught, is 14 there any system in place where Rite Aid takes 15 those red flags into account when considering 16 whether to ship an order to one of its 17 pharmacies?</p> <p>18 MS. McENROE: Objection to form.</p> <p>19 THE WITNESS: There is not.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. Does Rite Aid have any system in 22 place to evaluate whether prescriptions are being 23 placed without legitimate medical need at its 24 pharmacies when it's filling an order of Schedule</p>
<p style="text-align: right;">Page 63</p> <p>1 the distribution center.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. Is it your testimony that red 4 flags of diversion are always caught and stopped 5 by pharmacists before a prescription is filled?</p> <p>6 MS. McENROE: Objection to form.</p> <p>7 THE WITNESS: Not all red flags 8 are caught before diversion occurs or 9 before they're filled.</p> <p>10 BY MR. PIFKO:</p> <p>11 Q. So there are occasions when an 12 order is placed from a pharmacy where a 13 prescription has been filled even though there 14 were red flags; is that correct?</p> <p>15 MS. McENROE: Objection to form.</p> <p>16 THE WITNESS: Can you repeat, 17 please?</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. You agree that there are 20 instances where a prescription is placed to be 21 filled at a Rite Aid pharmacy that may have 22 indicia of red flags. Correct?</p> <p>23 MS. McENROE: Objection to form.</p> <p>24 THE WITNESS: There could be a</p>	<p style="text-align: right;">Page 65</p> <p>1 III controlled substances for that pharmacy?</p> <p>2 MS. McENROE: Objection to form.</p> <p>3 THE WITNESS: The red flags 4 process is in place in Rite Aid 5 pharmacies to identify fraudulent 6 activity or activity related to a 7 prescription to identify the red flags on 8 a prescription for controlled substances.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. The only process in place is at 11 the pharmacy through the pharmacist; is that 12 correct?</p> <p>13 MS. McENROE: Objection to form.</p> <p>14 THE WITNESS: When dispensing a 15 prescription, the pharmacist is the front 16 line. And yes, they're a licensed 17 individual that's trained and schooled to 18 be able to identify red flags. So yes, 19 the red flags and the prescription is 20 identified by the pharmacist. It has 21 nothing to do with the distribution 22 center.</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. All I'm trying to understand, is</p>

<p style="text-align: right;">Page 66</p> <p>1 there any way that that kind of information is 2 passed on to the distribution center. 3 So is your testimony that 4 potential red flag activity at a store location 5 is never passed on to the distribution center? 6 MS. McENROE: Objection to form. 7 THE WITNESS: To the best of my 8 knowledge, the red flag activity is not 9 passed on to the distribution center back 10 when we distributed controlled substances 11 up till 2014.</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. And there's no -- that means that 14 there was no system in place to consider red 15 flags of diversion at the distribution center 16 when an order was being shipped. Correct?</p> <p>17 MS. McENROE: Objection to form. 18 THE WITNESS: That is correct. 19 The red flags are determined by the 20 pharmacist that is in the pharmacy in 21 whether or not to dispense the 22 prescription.</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. Let's go back to the thresholds.</p>	<p style="text-align: right;">Page 68</p> <p>1 BY MR. PIFKO: 2 Q. So from the entirety of its 3 operation, that was the threshold when Rite Aid 4 was shipping Schedule III controlled substances 5 as a distributor. Correct?</p> <p>6 MS. McENROE: Objection to form. 7 THE WITNESS: Correct.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. And we talked about a meeting, 10 when I showed you Exhibit 3, discussing the 11 thresholds. Correct?</p> <p>12 A. We discussed a meeting.</p> <p>13 Q. So you -- we talked about the 14 people who are present at the meeting, and you 15 said that Andy Palmer was there because he had 16 the asset protection program. Correct?</p> <p>17 A. That is correct.</p> <p>18 Q. And you clarified that NaviScript 19 is never used to identify or report a suspicious 20 order. Correct?</p> <p>21 MS. McENROE: Objection to form. 22 THE WITNESS: That is correct.</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. All right. And so Maggie Perritt</p>
<p style="text-align: right;">Page 67</p> <p>1 Remember we were talking about 2 attributes of Rite Aid's system to identify, 3 report and halt suspicious orders. 4 MS. McENROE: Objection to form. 5 BY MR. PIFKO:</p> <p>6 Q. You recall us discussing that? 7 A. I do. 8 Q. Okay. So it was your testimony 9 that thresholds are one attribute of the system. 10 Correct? 11 A. That is correct. 12 Q. And other than a -- less than a 13 dozen, all store locations had a threshold of 14 5,000 dosage units per NDC per order. Correct? 15 MS. McENROE: Objection. 16 THE WITNESS: Correct. 17 BY MR. PIFKO:</p> <p>18 Q. And that was a threshold that was 19 in place for multiple decades. Correct? 20 MS. McENROE: Objection to form. 21 THE WITNESS: Yes. Keep in mind 22 for this, the Perryman Distribution 23 Center did not open until I believe 1998 24 or somewhere in that time frame.</p>	<p style="text-align: right;">Page 69</p> <p>1 was another person who was there from operations. 2 Correct?</p> <p>3 A. Yes. 4 Q. And you invited her to that 5 meeting? 6 A. I don't remember who invited 7 whom, but yes, she was at the meeting. 8 Q. Why was she invited to the 9 meeting? 10 A. Maggie was the pharmacy 11 operations person at the meeting that knew 12 algorithms, and also was the operator there that 13 would be impacted by thresholds. 14 Q. When you say she would be 15 impacted by thresholds, what do you mean? 16 A. The service to the stores and the 17 pharmacies obtaining their drugs. Pharmacy 18 operations obviously is in charge of who -- the 19 pharmacists that are dispensing the drugs and the 20 operating of the pharmacies. 21 Q. So if there was a change in the 22 threshold, it would impact the pharmacy 23 operations? 24 MS. McENROE: Objection to form.</p>

<p>1 THE WITNESS: It could. It 2 could. 3 BY MR. PIFKO: 4 Q. How would it impact the pharmacy 5 operations? 6 A. It may impact their ordering. It 7 may impact the amount of product that they would 8 have on their shelves. There could be any number 9 of ways that it could be impacted. 10 Q. Was that part of the discussion 11 at this meeting? 12 A. At this meeting -- I don't 13 recall. 14 Q. Do you recall discussing -- you 15 said Maggie had some knowledge about algorithms; 16 is that correct? 17 A. That is correct. 18 Q. Do you recall a specific 19 discussion with Maggie about algorithms and 20 suspicious order monitoring at this meeting? 21 A. I recall what occurred at the 22 meeting was that we were trying to put down in 23 detail the algorithms that were used in our 24 suspicious order monitoring program so that we</p>	<p>Page 70</p> <p>1 to a government agency, such as the DEA, 2 concerning the algorithms that may have been 3 used? 4 MS. McENROE: Objection to form. 5 THE WITNESS: I believe the 6 distribution centers had information as 7 far as obtaining the orders and the 8 thresholds and part of their suspicious 9 order program, but they did not know the 10 detail of the algorithms to the effect of 11 what was included and how the algorithms 12 work. There's numerous algorithms that 13 come together. And they did not have all 14 of that, no. 15 They had a document to provide to 16 the DEA. They really did provide -- that 17 was sufficient for DEA inspections 2005, 18 2009, prior to this meeting. So the 19 documentation on suspicious order 20 monitoring was at the distribution center 21 and adequate for the DEA.</p> <p>22 BY MR. PIFKO: 23 Q. There's a document that was 24 created in 2005?</p>
<p>1 could communicate it effectively to our 2 distribution centers on a one-page document so 3 that the DC would have something to present to 4 government agency, the Drug Enforcement 5 Administration, that would visit and do an 6 inspection. 7 Q. So prior -- and this meeting 8 occurred, if we look back at Exhibit 3, the email 9 is at the end of 2010. Agree? 10 A. Yes. 11 Q. Do you have a recollection about 12 when this meeting occurred after that email? 13 A. Maybe early 2011. I don't 14 recall. 15 Q. That's your best estimate, is 16 early 2011 when this meeting occurred? 17 A. Best estimate, yes. I don't -- I 18 don't recall truly. 19 Q. You said that you wanted to put 20 detail down concerning the algorithms so that you 21 could communicate them to the distribution 22 centers. 23 Prior to this discussion, did the 24 distribution centers have any document to present</p>	<p>Page 71</p> <p>1 A. There was a DEA inspection in 2 2005 at the distribution center. And as part of 3 their standard operating procedures in suspicious 4 order monitoring program, the distribution center 5 at that time had passed inspection. 6 Q. There was another inspection in 7 2009? 8 A. There was another inspection in 9 2009. 10 Q. Which specific facility are we 11 talking about with respect to the 2005 and 2009 12 inspections? 13 A. We are speaking of the Perryman 14 Distribution Center. 15 Q. You're opening a binder. 16 Can you tell me what that is? 17 A. Sure. It's a binder of documents 18 that I asked counsel to prepare for me to review 19 for the deposition. 20 Q. And you're looking for something 21 specific in there right now? 22 A. I was looking for a memo on the 23 DEA audit summary for 2005 and 2009. 24 Q. It's your understanding that</p>

<p style="text-align: right;">Page 78</p> <p>1 is placed. There's calculate regular 2 movement averages, perform checks on 3 weeks with no movement.</p> <p>4 So there's a series of 5 algorithms, but the general overall one 6 is looking at that specific store's data, 7 analyzing it, looking at what's on hand 8 in the store, and analyzing to determine 9 what order should be placed for that 10 store.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. Can orders be placed manually?</p> <p>13 MS. McENROE: Object to the form.</p> <p>14 THE WITNESS: Once the order gets 15 to the store, there is the ability for 16 the pharmacist to override the order, 17 yes.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. How does that process work, the 20 manual process?</p> <p>21 A. If the algorithm says to order 22 60, and the pharmacist has an order for 90 23 tablets, then at that point the pharmacist can 24 override to get the additional tablets that they</p>	<p style="text-align: right;">Page 80</p> <p>1 stores, and twice a week in a very limited number 2 of stores.</p> <p>3 Q. So let me break that down.</p> <p>4 So most -- what most -- what's 5 the ordering pattern for most stores?</p> <p>6 A. Most stores, Rite Aid places an 7 order once a week.</p> <p>8 Q. Some stores place two orders a 9 week?</p> <p>10 A. Some stores place two orders a 11 week, yes.</p> <p>12 Q. Some stores place orders every 13 two weeks?</p> <p>14 A. Yes.</p> <p>15 Q. Is there any other ordering 16 pattern that we haven't discussed?</p> <p>17 A. No. The stores are -- once a 18 store is programmed in, they can't place 19 additional orders.</p> <p>20 Q. Well, I'm just trying to 21 understand. So there's three categories here. 22 There's stores that order once a 23 week, which is most of the stores. 24 Then there's another category of</p>
<p style="text-align: right;">Page 79</p> <p>1 need in the order.</p> <p>2 Q. So when an order is going to be 3 placed, the pharmacist has access to see what 4 that order is?</p> <p>5 MS. McENROE: Objection.</p> <p>6 THE WITNESS: Yes. The 7 pharmacist has to have access to see that 8 order.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. So it's in this automated system, 11 but then there's some screen where the pharmacist 12 can see what the automated system is calculating 13 for the order?</p> <p>14 A. Yes.</p> <p>15 Q. Is there a name for that screen?</p> <p>16 A. I don't know what the name is.</p> <p>17 Q. Is the pharmacist required to 18 check the order before it's placed every time?</p> <p>19 A. Typically they do. I don't know 20 if it's required.</p> <p>21 Q. And so orders are placed by Rite 22 Aid stores with a regular frequency. Correct?</p> <p>23 A. Orders are placed once a week, 24 once every other week in a limited number of</p>	<p style="text-align: right;">Page 81</p> <p>1 stores that can order two orders in a week. 2 Correct?</p> <p>3 A. Correct.</p> <p>4 Q. And then there's another category 5 of stores that place one order every two weeks. 6 Correct?</p> <p>7 A. Correct.</p> <p>8 Q. And there's no other pattern 9 within Rite Aid for ordering. Correct?</p> <p>10 MS. McENROE: Objection to form.</p> <p>11 THE WITNESS: From the 12 distribution center, no.</p> <p>13 BY MR. PIFKO:</p> <p>14 Q. When you say most stores are on 15 this one order every week pattern, do you have an 16 understanding about the percentage of stores that 17 are in that pattern?</p> <p>18 A. Best guess estimate is 90 percent 19 are on that pattern.</p> <p>20 Q. How about stores that place two 21 orders a week, do you have a sense of the 22 percentage of stores that fit in that category?</p> <p>23 A. Let's reduce the first one to 24 80 percent. Sorry.</p>

<p style="text-align: right;">Page 82</p> <p>1 Q. Okay. So 80 percent of the 2 stores place one order every week. Correct? 3 A. Correct. 4 Q. What percentage of stores place 5 two orders a week? 6 A. To the best of my knowledge, 7 about 15 percent. 8 Q. What percentage of stores place 9 one order every two weeks? 10 A. 5 percent. 11 Q. The stores that place two orders 12 a week, are they located in specific areas? 13 MS. McENROE: Objection. 14 THE WITNESS: The stores that 15 order twice a week typically are in urban 16 areas such as Center City Philadelphia, 17 Center City New York City, where to get 18 one order once a week, there's not enough 19 room in the store itself to hold the 20 front end merchandise. 21 So an order needs to be shipped 22 twice a week in order to keep the 23 merchandise in the store to be sold. 24 That's typically when a store gets two</p>	<p style="text-align: right;">Page 84</p> <p>1 operations? 2 A. I think a lot of people in the 3 industry use the term "front end" versus 4 pharmacy. 5 Q. But that's also a term that Rite 6 Aid uses? 7 A. Yes. 8 Q. Let's go back to the algorithms 9 of ordering. 10 So a pharmacist can see the order 11 that's about to be placed in advance of it being 12 placed. Correct? 13 A. Yes. 14 Q. How far in advance of it being 15 placed can a pharmacist see it? 16 A. I believe a day. And then they 17 have time to review it and then make changes, 18 should they decide to. 19 Q. And then when a pharmacist sees 20 the order that's about to be placed, they can 21 manually increase the volumes that are on the 22 order; is that correct? 23 MS. McENROE: Objection to form. 24 THE WITNESS: They can manually</p>
<p style="text-align: right;">Page 83</p> <p>1 orders a week. 2 BY MR. PIFKO: 3 Q. So those stores are -- the square 4 footage of the stores is somewhat smaller and 5 they don't have room for inventory. 6 Is that what you're saying? 7 A. Typically, yes. 8 Q. Are there other occasions where a 9 store would have two orders a week? 10 A. No. That's primarily it. 11 Q. What about stores that order once 12 every two weeks, is there some sort of 13 characteristic about those stores? 14 A. Those may be the lower volume 15 stores that dispense less prescriptions or have 16 less movement of front end merchandise. A lower, 17 slower front end selling front end merchandise 18 may get it every two weeks. 19 Q. And just for clarity, when you 20 talk about "front end," that's everything that's 21 not in the pharmacy. Correct? 22 A. That is correct. 23 Q. Is that an internal term that 24 Rite Aid uses, front end versus pharmacy</p>	<p style="text-align: right;">Page 85</p> <p>1 increase the volumes or they can manually 2 decrease the volumes. 3 BY MR. PIFKO: 4 Q. So you talked about the highest 5 [REDACTED] [REDACTED] [REDACTED] [REDACTED] 9 A. Yes. 10 Q. Okay. But then the pharmacist 11 could manually increase that. Correct? 12 MS. McENROE: Objection to form. 13 THE WITNESS: They have the 14 ability to do that. 15 BY MR. PIFKO: 16 Q. Are there any other algorithms 17 that are in place? 18 A. There are other algorithms or 19 there are other pieces of the program which 20 allows no greater than 99 bottles to be 21 distributed in -- of any given product at any 22 given time as well. 23 Q. Can a pharmacist manually 24 override that?</p>

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<p>1 A. The pharmacist has the ability 2 to -- no. Pardon me. Step back. 3 The pharmacist cannot override 4 the 99 bottles.</p> <p>5 Q. Are there any other algorithms in 6 place?</p> <p>7 And you're looking at a document. 8 Can you read the Bates number of the document?</p> <p>9 A. I can. 004 -- oh.</p> <p>10 Rite_Aid_OMDL_0045426.</p> <p>11 Q. Is there a name for that 12 document?</p> <p>13 A. It is called pharmacy 14 replenishment algorithm. Okay.</p> <p>15 There are other parts to the 16 algorithm that come into play as well, one of 17 them being making an account for what we call 18 90-day fills at the pharmacy.</p> <p>19 So what that means is a patient 20 comes in and has a 30 -- a prescription for 30 21 days of like their blood pressure medication. 22 The patient chooses to get a 90-day supply or 23 three months at a time.</p> <p>24 So instead of having the</p>	<p>1 in each of the facilities.</p> <p>2 Q. And why did that make him someone 3 that was invited to this meeting?</p> <p>4 A. He owned the process of the 5 distribution of the controlled substances and the 6 pickers, was involved with -- directly involved 7 with the individual pickers that picked, the 8 operations of the controlled substance cages.</p> <p>9 So because of that and impacting 10 thresholds, he was invited to the meeting. And 11 also he was the one that attended the Buzzeo 12 conference that wanted to have some discussion 13 around it.</p> <p>14 Q. Were there any -- you talked 15 about putting together a document.</p> <p>16 That was something that was 17 discussed at this meeting. Correct?</p> <p>18 A. It was.</p> <p>19 Q. Did this meeting ultimately 20 result in a document being created?</p> <p>21 A. It did not.</p> <p>22 Q. Why was that?</p> <p>23 A. Several -- an individual at the 24 meeting left the company.</p>
<p>1 replenishment algorithm ship that product to the 2 store for the 30 days, 30 days and 30 days, the 3 algorithm takes into effect that that patient's 4 not coming back until 90 days. So you have to 5 have that product in 90 days instead of two 30 6 days. So that's part of the algorithm as well.</p> <p>7 And that's the gist of the 8 algorithms. The rest of it can be found in the 9 document.</p> <p>10 Q. Were there any changes to the 11 algorithms?</p> <p>12 MS. McENROE: Objection to form.</p> <p>13 THE WITNESS: To the best of my 14 knowledge, no.</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. Then going back to this meeting, 17 Kevin Mitchell was another person who was 18 invited. Correct?</p> <p>19 A. Correct.</p> <p>20 Q. Why was he invited?</p> <p>21 A. Kevin has responsibility for 22 the controlled -- had responsibility for the 23 controlled substance cages at the distribution 24 centers and was working with the DEA coordinators</p>	<p>Page 87</p> <p>1 Q. Who is that?</p> <p>2 A. Maggie Perritt.</p> <p>3 Q. And she was going to be 4 responsible for putting this documentation 5 together?</p> <p>6 A. Yes.</p> <p>7 Q. Do you know why she left?</p> <p>8 A. To take a job elsewhere. She 9 moved to Florida.</p> <p>10 Q. Did she make any comments on the 11 perceived sufficiency of Rite Aid's suspicious 12 order monitoring processes?</p> <p>13 MS. McENROE: Objection to form.</p> <p>14 THE WITNESS: After we had the 15 meetings -- the meeting, and everybody 16 came together, everyone was overly 17 confident that our suspicious order 18 monitoring program was adequate and met 19 DEA rule and regulation. The idea was 20 again to put everything together in one 21 space and in one document to be able to 22 provide for the DEA. There were no -- 23 from Kevin to Andy to Maggie to myself, 24 there were no changes at that time that</p>

<p style="text-align: right;">Page 90</p> <p>1 were noted to be made to the suspicious 2 order monitoring program, just to put it 3 into a format that could be provided to 4 governmental agencies when needed.</p> <p>5 BY MR. PIFKO:</p> <p>6 Q. Did anyone write down anything 7 after that meeting stating that they were 8 satisfied with Rite Aid's procedures?</p> <p>9 MS. McENROE: Objection to form.</p> <p>10 THE WITNESS: I don't know that 11 anyone said that they were satisfied with 12 it. There were communications from Kevin 13 asking to -- for Maggie to put it in so 14 that they could get it to distribution 15 centers, but I don't know that there was 16 anything that said everybody signed off 17 at the meeting.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. Are there any other features of 20 Rite Aid's procedures with respect to identifying 21 suspicious orders?</p> <p>22 MS. McENROE: Objection to form.</p> <p>23 THE WITNESS: Sure. There is an 24 asset protection side of our suspicious</p>	<p style="text-align: right;">Page 92</p> <p>1 mentioned the asset protection aspects? 2 A. Correct. 3 Q. When you say those are the three 4 components, that's what you were referring to? 5 A. Yes. 6 Q. Let's talk about the thresholds 7 for a moment. 8 So I want to talk about how they 9 work. 10 So every store, except for the 11 less than a dozen that you mentioned, has a limit 12 of 5,000 dosage units per NDC per order. 13 Correct?</p> <p>14 A. Correct. 15 Q. And how is that limitation 16 implemented? 17 A. It is implemented by the pickers 18 in the distribution centers. 19 Q. How specifically does that occur? 20 A. In the distribution center, when 21 an item is lit up to be picked, there's a device 22 called the pick -- Pick-to-Light and it lights up 23 and there's a quantity of the item to be picked. 24 When it lights up, it will say the number of</p>
<p style="text-align: right;">Page 91</p> <p>1 order monitoring program which has a 2 number of KPIs which look at cycle counts 3 down, which look at ordering 4 abnormalities. So there are part of the 5 asset protection, part of the suspicious 6 order monitoring. And that can lead to 7 investigations into stores, into theft, 8 diversion, whatever it may be.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. But you testified earlier that 11 that system was never used to identify and report 12 a suspicious order. Correct?</p> <p>13 MS. McENROE: Objection to form.</p> <p>14 THE WITNESS: I did.</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. Any other systems in place that 17 Rite Aid had to identify, report and halt the 18 shipment of suspicious orders?</p> <p>19 MS. McENROE: Objection to form.</p> <p>20 THE WITNESS: Those were the 21 major three components.</p> <p>22 BY MR. PIFKO:</p> <p>23 Q. So to be clear, we talked about 24 the thresholds, the algorithm and then you</p>	<p style="text-align: right;">Page 93</p> <p>1 packages to be picked. 2 If the picker sees, say, it's a 3 bottle of 100, 53 packages to be picked, they 4 will set -- they won't pick the item and they 5 will immediately report it to their supervisor. 6 Q. So an order is placed that 7 exceeds the threshold, the picker sees that on 8 the lighting system? 9 A. Pick-to-Light, yes. 10 Q. So the lighting system identifies 11 that it exceeds the threshold or the picker does? 12 MS. McENROE: Objection to form. 13 THE WITNESS: The picker does. 14 BY MR. PIFKO: 15 Q. So the pickers know that there's 16 this 5,000 dosage unit per NDC per order 17 requirement? 18 A. The pickers are very well versed 19 in the threshold, yes. 20 Q. Is there documentation that 21 they're provided with that tells them about that 22 threshold? 23 A. Each of the pickers has an 24 attestation that they understand the 5,000 dosage</p>

<p style="text-align: right;">Page 94</p> <p>1 unit limit.</p> <p>2 Q. What do you mean by dosage unit?</p> <p>3 A. A tablet, a capsule, any</p> <p>4 individual dose.</p> <p>5 Q. Okay. So the picker has to look</p> <p>6 and see if it's 10 bottles of 50, they have to</p> <p>7 make that calculation?</p> <p>8 A. Yes. They make that calculation.</p> <p>9 Pharmacy packages are typically bottles of 100 or</p> <p>10 bottles of 500 or bottles of 1,000. So it's a</p> <p>11 simple calculation. There's not half bottles or</p> <p>12 anything along those lines. It's typically 100,</p> <p>13 500 and 1,000.</p> <p>14 Q. Is there any automation that</p> <p>15 makes that calculation for them?</p> <p>16 MS. McENROE: Objection to form.</p> <p>17 THE WITNESS: From the</p> <p>18 Pick-to-Light, there's not.</p> <p>19 BY MR. PIFKO:</p> <p>20 Q. So an order comes in and they --</p> <p>21 if it says six bottles of 1,000, that exceeds the</p> <p>22 threshold. Correct?</p> <p>23 MS. McENROE: Objection to form.</p> <p>24 THE WITNESS: Correct.</p>	<p style="text-align: right;">Page 96</p> <p>1 a computer and determine if the order was on a</p> <p>2 replenishment and an auto ship or not.</p> <p>3 Q. And we talked earlier about</p> <p>4 manually overriding by the pharmacist.</p> <p>5 Do you recall that?</p> <p>6 A. I do.</p> <p>7 Q. Is that what you're</p> <p>8 distinguishing between a manual override and an</p> <p>9 order that's not -- that has no manual overrides?</p> <p>10 A. Yes.</p> <p>11 Q. How does the supervisor see that</p> <p>12 on a computer screen?</p> <p>13 A. You can identify the particular</p> <p>14 drug. And it would say what your projected order</p> <p>15 was.</p> <p>16 So let's say that we took those</p> <p>17 6,000 dosage units that you were discussing, they</p> <p>18 would be able to see that the auto generated</p> <p>19 order was six bottles to know that that was the</p> <p>20 case.</p> <p>21 Q. And if the pharmacist manually</p> <p>22 overrides it, then there's something they can see</p> <p>23 on there that shows that the amount is different</p> <p>24 than what the auto replenishment system would</p>
<p style="text-align: right;">Page 95</p> <p>1 BY MR. PIFKO:</p> <p>2 Q. And then if it exceeds the</p> <p>3 threshold, they have to call their supervisor?</p> <p>4 A. They do.</p> <p>5 Q. What do they do when they call</p> <p>6 their supervisor?</p> <p>7 A. The supervisor comes over, stops</p> <p>8 the pick and then investigates the order to</p> <p>9 determine, was it an auto ship order, what was</p> <p>10 the nature of the order.</p> <p>11 And at that particular time, they</p> <p>12 would short the order to the 5,000 threshold and</p> <p>13 then inquire from the store, if it wasn't an auto</p> <p>14 replenishment order, why they ordered the</p> <p>15 additional bottle.</p> <p>16 Q. So let's break that process out a</p> <p>17 little bit.</p> <p>18 You said the supervisor comes</p> <p>19 over and looks at the order.</p> <p>20 How do they tell if it's an auto</p> <p>21 ship order?</p> <p>22 A. There is -- once they realize the</p> <p>23 drug in that, there is a terminal in the</p> <p>24 distribution center in the cage. They can go to</p>	<p style="text-align: right;">Page 97</p> <p>1 have placed?</p> <p>2 A. That is correct. I believe</p> <p>3 some -- one of the exhibits that we discussed</p> <p>4 yesterday had a screenshot of a suggested order</p> <p>5 and where you could see what the suggested order</p> <p>6 was, when we were discussing 3151.</p> <p>7 Q. And so where it says suggested</p> <p>8 order, that's what the auto replenishment system</p> <p>9 would order?</p> <p>10 A. That is correct.</p> <p>11 Q. And so if it's an auto</p> <p>12 replenishment system order, what is the</p> <p>13 supervisor supposed to do?</p> <p>14 A. The supervisor -- the order is</p> <p>15 still cut to the normal -- to the 5,000</p> <p>16 threshold. And at that point, the supervisor</p> <p>17 would reach out and contact the pharmacy to</p> <p>18 determine, did they need the 6,000 dosage units</p> <p>19 and if they did, what was the reason. And if</p> <p>20 they -- if it continued to go above what the</p> <p>21 threshold was, how they could get an increase to</p> <p>22 their threshold.</p> <p>23 Q. Is the order filled before that</p> <p>24 conversation occurs?</p>

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<p>1 MS. McENROE: Objection to form.</p> <p>2 THE WITNESS: The order is</p> <p>3 reduced to the 5,000, yes. And the</p> <p>4 conversation can occur after the order is</p> <p>5 reduced.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. Is there any documentation of</p> <p>8 this conversation that occurs?</p> <p>9 A. There is documentation in the</p> <p>10 controlled drug cage.</p> <p>11 Q. Is there a name of a form or a</p> <p>12 logbook or something where they write down</p> <p>13 anything about the conversation?</p> <p>14 A. There is a log, yes.</p> <p>15 Q. What's it called?</p> <p>16 A. Let me look.</p> <p>17 Q. And when you get to what you're</p> <p>18 looking at, please identify the Bates number.</p> <p>19 A. I'm going to flip through,</p> <p>20 because I'm not finding what I wanted to see.</p> <p>21 Q. What specifically are you looking</p> <p>22 for?</p> <p>23 A. There is a threshold log that is</p> <p>24 created at the distribution centers that would</p>	<p>1 but this is the hands-on log in the cage.</p> <p>2 Q. So any notes of any discussion</p> <p>3 would be contained in that log?</p> <p>4 A. Yes.</p> <p>5 Q. What happens to that log after</p> <p>6 it's -- where do they keep their log?</p> <p>7 MS. McENROE: Objection to form.</p> <p>8 THE WITNESS: They keep the log</p> <p>9 in the controlled drug cage with the</p> <p>10 other DEA records.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. Do they send it to anyone with</p> <p>13 some frequency?</p> <p>14 A. This log, they may send it to</p> <p>15 myself or Kevin Mitchell or Chris Belli for</p> <p>16 review as well.</p> <p>17 Q. They may, but they're not</p> <p>18 required to do so?</p> <p>19 MS. McENROE: Objection to form.</p> <p>20 THE WITNESS: They're not</p> <p>21 required to do so.</p> <p>22 BY MR. PIFKO:</p> <p>23 Q. So they would call the pharmacist</p> <p>24 to ask if they -- in a situation where the order</p>
Page 99	Page 101
<p>1 identify who was called on what date and what</p> <p>2 their response was.</p> <p>3 Q. And when you're looking through</p> <p>4 that binder -- I assume you've looked at all the</p> <p>5 materials in the binder. Correct?</p> <p>6 A. I have.</p> <p>7 Q. Are you looking for an example of</p> <p>8 a threshold log, or are you looking for a policy</p> <p>9 that discusses it?</p> <p>10 A. I'm looking for an example of a</p> <p>11 threshold log. And it is called the Controlled</p> <p>12 Drug Above Average Order Monitoring Log.</p> <p>13 Q. And that's the document that --</p> <p>14 where the supervisor notates any conversation</p> <p>15 they may have had with the pharmacist?</p> <p>16 A. That is correct.</p> <p>17 Q. Is there any other place where</p> <p>18 they would note their discussion?</p> <p>19 A. This is the primary document</p> <p>20 where they would note their discussion.</p> <p>21 Q. You said primary.</p> <p>22 Is there a secondary document?</p> <p>23 A. They may have an Excel</p> <p>24 spreadsheet that they would create a log as well,</p>	<p>1 exceeds the threshold, they would call the</p> <p>2 pharmacist and ask if that was -- they intended</p> <p>3 to place that order. Correct?</p> <p>4 A. That is correct.</p> <p>5 Q. But regardless of what the</p> <p>6 pharmacist says, the order is cut to threshold?</p> <p>7 MS. McENROE: Objection to form.</p> <p>8 THE WITNESS: That is correct.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. And that may be shipped before</p> <p>11 that conversation occurs. Correct?</p> <p>12 A. That is also correct.</p> <p>13 The number on the log that I'm</p> <p>14 looking at, do you want that?</p> <p>15 Q. Oh, yes. Thank you.</p> <p>16 A. Okay. Rite_Aid_OMDL_0024039.</p> <p>17 Q. Is there any other discussion</p> <p>18 that occurs in the situation where an order</p> <p>19 exceeds the threshold?</p> <p>20 MS. McENROE: Objection to form.</p> <p>21 THE WITNESS: The discussion is</p> <p>22 at the distribution center when the order</p> <p>23 is -- to the best of my knowledge, no.</p> <p>24 BY MR. PIFKO:</p>

Page 102	Page 104
<p>1 Q. So other than calling the 2 pharmacist to ask if they intended to place that 3 order, there is no other discussion. Correct? 4 A. If they're -- part of the policy 5 is if there was an order that there was deemed to 6 be suspicious, part of the policy then is to 7 contact government affairs, myself, to 8 investigate and determine if there was any 9 suspicion or diversion or anything. 10 Q. But that's never happened. 11 Correct? 12 A. It has not. 13 Q. No one has ever called you and 14 said an order is potentially suspicious? 15 MS. McENROE: Objection to form. 16 THE WITNESS: They have not. 17 BY MR. PIFKO: 18 Q. So other than this conversation 19 with the pharmacist, is there anything else that 20 happens? 21 MS. McENROE: Objection to form. 22 THE WITNESS: After the 23 conversation with the pharmacist, and if 24 the pharmacist deems that it's necessary,</p>	<p>1 documentation of the call. 2 BY MR. PIFKO: 3 Q. That's the only documentation of 4 any investigation that may be conducted. 5 Correct? 6 MS. McENROE: Objection to form. 7 THE WITNESS: Yes. The log is 8 the documentation. 9 BY MR. PIFKO: 10 Q. So let's talk about the override 11 or threshold increase. 12 Can the -- is it possible to make 13 a one-time override? 14 MS. McENROE: Objection to form. 15 THE WITNESS: I don't know that 16 it's ever been done, but it could be 17 possible for someone to call me and ask 18 for a one-time override. And yes, it 19 could be done. 20 BY MR. PIFKO: 21 Q. But to your knowledge, that's 22 never happened? 23 A. No. 24 Q. So when you mentioned that</p>
Page 103	Page 105
<p>1 that they need the additional product to 2 service their patients and meet their 3 patients' healthcare needs, then they can 4 reach out to their pharmacy district 5 manager who, at that time will determine, 6 yes, there is a valid need to increase 7 the threshold. And then ask me to 8 complete a threshold override so that 9 they can go above the 5,000 dosage units 10 based on valid patient need. 11 BY MR. PIFKO: 12 Q. Let's hold on to that for a 13 second. 14 Other than making a request to 15 increase the threshold, is there any other 16 discussion that occurs? 17 MS. McENROE: Objection to form. 18 THE WITNESS: There is not. 19 BY MR. PIFKO: 20 Q. And there's -- other than writing 21 down this log, there is no other documentation 22 that's made. Correct? 23 MS. McENROE: Objection to form. 24 THE WITNESS: The log is the</p>	<p>1 someone could ask for a threshold increase, that 2 would be a permanent increase for that location. 3 Correct? 4 MS. McENROE: Objection to form. 5 THE WITNESS: That would be an 6 increase that would be put in place and 7 then monitored routinely to make sure 8 that the usage and the reason for the 9 override would occur. 10 I would foresee a one-time 11 threshold override if there was a store 12 that had a night burglary and all of the 13 products were stolen from the store. So 14 obviously you would need to get product 15 into that store. So there may be the 16 potential for an override in situations 17 like that. 18 BY MR. PIFKO: 19 Q. Do you recall that ever 20 occurring? 21 A. There are night break-ins, yes. 22 I don't recall ever doing a threshold override, 23 but we do have night break-ins and armed 24 robberies, yes.</p>

<p style="text-align: right;">Page 106</p> <p>1 Q. In situations where an order is 2 placed to fill product that's been stolen in an 3 overnight robbery, is there any -- other than 4 reporting theft to the DEA, is there any 5 reporting of that order being potentially 6 suspicious?</p> <p>7 MS. McENROE: Objection to form.</p> <p>8 THE WITNESS: There is not.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. So then when we're talking about 11 this override of the threshold, the store can 12 then request that their threshold be increased?</p> <p>13 A. If it was a one-time threshold, 14 typically the pharmacy district manager would 15 make a call and ask for it because of the 16 extenuating circumstance.</p> <p>17 Q. But we talked this, there's never 18 been to your knowledge a one-time increase?</p> <p>19 A. To the best of my knowledge, no.</p> <p>20 Q. So if after this call -- so you 21 said that on the call, the supervisor asked the 22 pharmacist if they intended to place that order. 23 Correct?</p> <p>24 MS. McENROE: Objection to form.</p>	<p style="text-align: right;">Page 108</p> <p>1 organizational structure of your department.</p> <p>2 Correct?</p> <p>3 A. I did.</p> <p>4 Q. Is there any sort of 5 suborganizational structure of people who would 6 just deal with threshold increases?</p> <p>7 A. From the distribution center, 8 when we distributed, there was myself and Andrea 9 Bucher.</p> <p>10 Q. So only the two of you would have 11 been the only people who would deal with 12 threshold increases?</p> <p>13 A. I'm thinking of the time frame of 14 when individuals entered the department. There 15 is the possibility that another member of my 16 team, Amy Knisely, may have looked at thresholds 17 as well.</p> <p>18 Q. Anyone else?</p> <p>19 A. No.</p> <p>20 Q. So you, Andrea Bucher or Amy 21 Knisely would be the only people that would have 22 evaluated a threshold increase request?</p> <p>23 A. Yes.</p> <p>24 Q. Is there a document that has to</p>
<p style="text-align: right;">Page 107</p> <p>1 THE WITNESS: Correct.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. And then if they say yes, the 4 next thing that the supervisor tells them is 5 how -- the process that they can go through to 6 get their threshold increased. Correct?</p> <p>7 MS. McENROE: Objection to form.</p> <p>8 THE WITNESS: That is correct.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. And so what is the process then 11 that a store would undertake to get a threshold 12 increase?</p> <p>13 A. At that particular time, the 14 store would reach out to their pharmacy district 15 manager or immediate supervisor and say, my order 16 has been cut back. I can't service my patients. 17 Please seek a threshold increase on hydrocodone 18 for my particular store. And then the pharmacy 19 district manager would send that increase request 20 to myself or a member of my team.</p> <p>21 Q. Is there a name for that team?</p> <p>22 A. Regulatory compliance, government 23 affairs. It's both one and the same.</p> <p>24 Q. So you talked yesterday about the</p>	<p style="text-align: right;">Page 109</p> <p>1 be created to get requests to threshold increase?</p> <p>2 MS. McENROE: Objection to form.</p> <p>3 THE WITNESS: There is no 4 document, just an email with the reason 5 why the increase is needed and -- on an 6 email.</p> <p>7 BY MR. PIFKO:</p> <p>8 Q. So the district manager sends an 9 email to you or one of the members of your team?</p> <p>10 A. They do.</p> <p>11 Q. Can the pharmacist go directly to 12 you?</p> <p>13 A. If the pharmacists come directly 14 to us, we reroute it to the pharmacy district 15 manager in order to make sure that they're aware 16 that there's a request in for them to say, yes, 17 please look at the request.</p> <p>18 MS. McENROE: Mark, we've been 19 going for about an hour, so whenever is a 20 good time for a break.</p> <p>21 MR. PIFKO: Okay.</p> <p>22 BY MR. PIFKO:</p> <p>23 Q. The district manager has to 24 approve sending the request to you and your team?</p>

Page 110	Page 112
1 A. Yes.	1 Q. Okay. And so then upon receiving
2 Q. And even if a pharmacist makes it	2 that, you would then look at the data for that
3 directly, you then back route it to the district	3 pharmacy as you just testified a few minutes ago?
4 manager to make sure that they would approve it	4 A. We would. Similar to what we
5 first?	5 looked at yesterday for 3151.
6 A. Sure. I would -- I could make a	6 MR. PIFKO: Okay. We can take a
7 phone call to the pharmacy district manager and	7 break.
8 say, hey, we have a request that came in from	8 MS. McENROE: Okay.
9 your store 1234, you know, do you want us to work	9 THE VIDEOGRAPHER: Going off the
10 on it or look at it. And they would say yes or	10 record at 11:35 a.m.
11 no once they determined if it was needed or not.	- - -
12 But yes.	12 (A recess was taken from
13 Q. We'll take a break in just a	13 11:35 a.m. to 11:53 a.m.)
14 moment, but I want to ask you, are there any	- - -
15 criteria or attributes of the pharmacy that you	15 THE VIDEOGRAPHER: We're back on
16 look for when you're evaluating a threshold	16 the record at 11:53 a.m.
17 increase?	17 BY MR. PIFKO:
18 MS. McENROE: Objection to form.	18 Q. I want to ask you some questions.
19 THE WITNESS: For a threshold	19 You brought a binder with you
20 increase, we look at usage from the	20 today. Correct?
21 store, the order history, the suggested	21 A. I did.
22 order and an average of the monthly	22 Q. Can you describe for the record
23 dispensings of that particular drug for	23 what that binder is?
24 the store.	24 A. Sure. It was documents that I
Page 111	
1 BY MR. PIFKO:	1 asked counsel to put together and make copies of
2 Q. When they make the request to	2 for me as part of my testimony, or depositions so
3 you, though, do they have to provide any specific	3 that I could refer to them.
4 type of information in the email request?	4 Q. I'm handing you what's marked as
5 A. Sometimes they do and sometimes	5 Exhibit 4.
6 they don't. Sometimes they would say, a new	- - -
7 clinic opened down the street, depending on the	7 (Deposition Exhibit No.
8 request that came in.	8 Hart-30(b)(6)-4, Index of Binder, was
9 Q. But my question was different.	9 marked for identification.)
10 Are they required to provide	- - -
11 certain types of information in the email making	11 BY MR. PIFKO:
12 the request to you?	[REDACTED]
13 A. They are not required to put it	[REDACTED]
14 in the email, but that does not mean that we	[REDACTED]
15 don't follow up and get the extenuating	[REDACTED]
16 circumstance of why they're asking for the	[REDACTED]
17 increase.	[REDACTED]
18 Q. So the only thing that's required	[REDACTED]
19 is that they tell you that they want the	[REDACTED]
20 increase?	[REDACTED]
21 MS. McENROE: Objection to form.	[REDACTED]
22 THE WITNESS: In the email, yes.	[REDACTED]
23 But there would be follow-up with them.	[REDACTED]
24 BY MR. PIFKO:	[REDACTED]

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Term	Percentage (%)
Global warming	98
Green energy	95
Sustainable development	92
Renewable energy	88
Clean energy	85
Carbon footprint	82
Green technology	78
Eco-friendly	75
Renewable resources	72
Green products	68
Carbon emissions	65
Green space	62
Renewable energy sources	58
Green building	55
Green infrastructure	52
Green economy	48
Green jobs	45
Green transportation	42
Green architecture	38
Green design	35
Green products	32
Green energy	28
Green energy	25
Green energy	22
Green energy	18
Green energy	15
Green energy	12
Green energy	8
Green energy	5
Green energy	2
Green energy	1

A horizontal bar chart illustrating the percentage of respondents who have heard of various environmental terms. The y-axis lists the terms, and the x-axis represents the percentage scale from 0% to 100%.

Term	Percentage (%)
Global warming	98
Green energy	95
Sustainable development	92
Clean water	90
Renewable energy	88
Carbon footprint	85
Recycling	82
Biodiversity	78
Organic food	75
Eco-friendly	72
Green technology	68
Green building	65
Green economy	62
Green infrastructure	58
Green space	55
Green transportation	52
Green architecture	48
Green products	45
Green living	42
Green lifestyle	38
Green products	35
Green infrastructure	32
Green transportation	28
Green architecture	25
Green living	22
Green products	18
Green infrastructure	15
Green transportation	12
Green architecture	8
Green living	5
Green products	2

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A horizontal bar chart illustrating the distribution of 1000 samples across 10 distinct categories. The categories are represented by black bars of varying lengths, arranged from top to bottom. The distribution is highly skewed, with the first category (the longest bar) containing approximately 300 samples, while the remaining nine categories each contain approximately 100 samples. The bars are set against a white background with a vertical dashed line on the left side.

Category	Approximate Sample Count
1	~300
2	~100
3	~100
4	~100
5	~100
6	~100
7	~100
8	~100
9	~100
10	~100

6 Q. Did you review all these
7 documents prior to today's deposition?
8 A. I did.
9 Q. Did you review any other
10 documents prior to today's deposition, beyond
11 what's in this -- that binder?
12 A. I did.
13 Q. What was the basis for reviewing
14 the other documents that you reviewed other than
15 the ones that are in the binder?
16 MS. McENROE: Objection. I just
17 want to caution the witness in terms of
18 not revealing substance discussed with
19 counsel, to avoid divulging any verbally,
20 of course, privileged information.
21 Can you restate the question?
22 Just so I make sure I understand how it's
23 not asking for privileged information.
24 BY MR. PIFKO:

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<p>1 Q. Yeah.</p> <p>2 So you reviewed the documents in</p> <p>3 the binder to prepare for the deposition.</p> <p>4 Correct?</p> <p>5 A. Correct.</p> <p>6 Q. And you reviewed other documents</p> <p>7 that aren't in the binder to prepare for the</p> <p>8 deposition; is that correct?</p> <p>9 A. Correct.</p> <p>10 Q. Okay. When did you review the</p> <p>11 other documents that weren't in the binder?</p> <p>12 A. When I met with counsel to</p> <p>13 prepare.</p> <p>14 Q. Okay. It's like a two-inch</p> <p>15 binder that you have in front of you.</p> <p>16 It's basically full. Agreed?</p> <p>17 A. Yes.</p> <p>18 Q. And is it double-sided?</p> <p>19 A. Yes.</p> <p>20 Q. The volume of documents that you</p> <p>21 reviewed that's not in the binder, how does that</p> <p>22 compare to the volume of documents that's in the</p> <p>23 binder?</p> <p>24 MS. McENROE: Objection to form.</p>	<p>1 THE WITNESS: I believe all the</p> <p>2 documents that I reviewed were provided.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. How did you decide what documents</p> <p>5 that you wanted to review?</p> <p>6 A. I looked at the importance of the</p> <p>7 documents and what I might make part of my</p> <p>8 deposition. And picked some of the positives or</p> <p>9 like in the analytics part of it, the algorithms.</p> <p>10 I'm not an algorithm person, so I wanted to have</p> <p>11 something in front of me to be able to review.</p> <p>12 Q. Did you speak to anyone other</p> <p>13 than counsel to prepare for the deposition?</p> <p>14 A. Today or previously?</p> <p>15 Q. At any time.</p> <p>16 A. I have.</p> <p>17 Q. Okay. Who did you speak with?</p> <p>18 A. I spoke with Marcia Brumbaugh,</p> <p>19 who is in our IT department. Charlie Miller,</p> <p>20 Andy Palmer, Ron Chima.</p> <p>21 I'm trying to think.</p> <p>22 Those are the people within the</p> <p>23 corporation that I spoke to, or with or former.</p> <p>24 Q. How long did you speak to Marcia?</p>
<p style="text-align: center;">Page 119</p> <p>1 THE WITNESS: Many more documents</p> <p>2 were reviewed aside from this -- these</p> <p>3 27.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. So you would say there's a lot</p> <p>6 more documents that you reviewed to prepare for</p> <p>7 the deposition that aren't in the binder.</p> <p>8 Correct?</p> <p>9 A. There were.</p> <p>10 Q. You just went through the</p> <p>11 exercise of reading all those numbers. As we</p> <p>12 discussed, those are Bates numbers.</p> <p>13 Do you believe that all the</p> <p>14 documents that you reviewed to prepare for the</p> <p>15 deposition had those kinds of numbers on them?</p> <p>16 A. I believe so, yes.</p> <p>17 Q. Do you know if there's any</p> <p>18 documents that you reviewed to prepare for the</p> <p>19 deposition that were not provided to the</p> <p>20 plaintiffs in the litigation?</p> <p>21 MS. McENROE: What he means by</p> <p>22 that is, if it has a Bates number, that</p> <p>23 it would be provided to plaintiffs in the</p> <p>24 litigation.</p>	<p>1 A. I believe it was about an</p> <p>2 hour-and-a-half.</p> <p>3 Q. Did you have more than one</p> <p>4 conversation with her?</p> <p>5 A. I had one conversation with her.</p> <p>6 Q. What did you discuss with her to</p> <p>7 prepare for the deposition?</p> <p>8 MS. McENROE: Objection. I just</p> <p>9 want to interject. To the extent counsel</p> <p>10 was involved, that you shouldn't discuss</p> <p>11 the substance as privileged.</p> <p>12 THE WITNESS: Okay.</p> <p>13 MR. PIFKO: Well, preparations</p> <p>14 for a 30(b)(6) are not -- if she's trying</p> <p>15 to inform herself, they're not</p> <p>16 privileged.</p> <p>17 MS. McENROE: On the underlying</p> <p>18 facts, I agree with you. I just want to</p> <p>19 make sure that any of the substance that</p> <p>20 could have been discussed at the</p> <p>21 direction of counsel or with input from</p> <p>22 counsel is not divulged inadvertently.</p> <p>23 THE WITNESS: Can you repeat the</p> <p>24 question?</p>

Page 122	Page 124
1 BY MR. PIFKO:	1 Q. And which tab was that?
2 Q. Yeah.	2 A. Let me look.
3 I just want to know -- okay.	3 That would be 7 and 8.
4 So you had one conversation with	[REDACTED]
5 Marcia to prepare for the deposition. Correct?	[REDACTED]
6 A. I did.	[REDACTED]
7 Q. Okay. And my question is, and	[REDACTED]
8 you said that you spoke to her for about an	[REDACTED]
9 hour-and-a-half. Correct?	[REDACTED]
10 A. That is correct.	[REDACTED]
11 Q. Sorry. You need to give an	[REDACTED]
12 audible response.	[REDACTED]
13 Did you speak to her in person or	[REDACTED]
14 on the phone?	[REDACTED]
15 A. In person.	15 Q. You also spoke to Charlie Miller?
16 Q. Who else was present at that	16 A. I did.
17 meeting?	17 Q. Who is Charlie Miller?
18 A. Counsel.	18 A. Charlie Miller is a pharmacist
19 Q. Anyone else?	19 for Rite Aid at present.
20 A. That was it.	20 Q. Where is he based?
21 Q. Okay. And for purposes of	21 A. He is in Pennsylvania.
22 preparing of the deposition, what did you discuss	22 Q. Does he work for a specific
23 with her?	23 store?
24 A. We discussed the algorithm.	24 A. Yes, he's a pharmacist in a
Page 123	
1 Q. Anything else?	1 [REDACTED] store. I don't know the location.
2 A. That was primarily it.	2 Q. Somewhere in Pennsylvania?
3 Q. What's Marcia's background?	3 A. Yes.
4 A. She is in our information -- IT	4 Q. In Philadelphia, or you don't
5 department.	5 know that?
6 Q. Does she have knowledge about the	6 A. I think closer to York.
7 algorithm?	7 Q. And what did you speak with Mr.
8 A. She does.	8 Miller to prepare for the deposition about?
9 Q. Did she have any role in	9 MS. McENROE: Same objection,
10 designing it?	10 same instruction, in terms of any
11 A. I don't know that.	11 involvement of counsel, stay away from
12 Q. Do you know how long she's been	12 any of that sort of privileged
13 with the company?	13 discussion. But for the underlying
14 A. I'm going to say at least 15	14 facts, so long as you're not divulging
15 years.	15 privileged information, you may answer.
16 Q. Do you know if Marcia had any	[REDACTED]
17 role in modifying the algorithm at any time?	[REDACTED]
18 A. I don't know that.	[REDACTED]
19 Q. Okay. For purposes of preparing	[REDACTED]
20 for the deposition, what did Marcia tell you	[REDACTED]
21 about the algorithm?	[REDACTED]
22 A. We went over the document on the	[REDACTED]
23 algorithm that was involved in here, just to give	[REDACTED]
24 an overview of the algorithm.	[REDACTED]

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1 can't do the same with respect to Mr.
2 Chima.

3 BY MR. PIFKO:

4 Q. Did you discuss any facts that
5 you needed to know to serve as the 30(b)(6)
6 witness with Mr. Chima?

7 MS. McENROE: That's just a yes
8 or no.

9 THE WITNESS: I did not discuss
10 any facts.

11 BY MR. PIFKO:

12 Q. How long did you meet with Mr.
13 Chima?

14 A. Not long at all. I would -- you
15 know, a short meeting. Not even a meeting, a
16 conversation.

17 MS. McENROE: Okay.

18 BY MR. PIFKO:

19 Q. Was that in person?

20 MS. McENROE: You may answer that
21 question.

22 THE WITNESS: Yes.

23 BY MR. PIFKO:

24 Q. When was that?

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<p>Page 142</p> 	<p>Page 144</p> 
<p>Page 143</p> 	<p>Page 145</p>  <p>8 MS. McENROE: Objection to form. 9 And again, you already elicited the 10 testimony that Rite Aid did not consider 11 the McKesson thresholds to be part of the 12 suspicious order monitoring.</p> <p>13 MR. PIFKO: You're giving a 14 speaking objection. You can't do that. 15 You've got to stop --</p> <p>16 MS. McENROE: You said I could 17 have 10 seconds. And you're going far 18 beyond --</p> <p>19 MR. PIFKO: No, no. I didn't say 20 you could have 10 seconds. You can 21 object to scope and that's it. You're 22 coaching the witness. You need to stop.</p> <p>23 MS. McENROE: I'm not coaching 24 the witness. I'm trying to speak to you.</p>

	Page 146	Page 148
1	MR. PIFKO: You're speaking here,	scope of it after the deposition is over.
2	you're giving testimony.	MS. McENROE: Objection as to
3	MS. McENROE: Do you want to go	scope.
4	off the record --	BY MR. PIFKO:
5	MR. PIFKO: No.	[REDACTED]
6	MS. McENROE: -- and you and I	[REDACTED]
7	can go talk in the hallway?	[REDACTED]
8	MR. PIFKO: No, I don't.	[REDACTED]
9	MS. McENROE: Then that's fine.	[REDACTED]
10	MR. PIFKO: I want you to object	[REDACTED]
11	properly.	[REDACTED]
12	MS. McENROE: I'm objecting just	[REDACTED]
13	fine. You are all over the place.	[REDACTED]
14	MR. PIFKO: Okay.	[REDACTED]
15	MS. McENROE: Can you tell me	[REDACTED]
16	which 30(b)(6) topic --	[REDACTED]
17	MR. PIFKO: No. I'm asking the	[REDACTED]
18	questions here. Okay?	[REDACTED]
19	MS. McENROE: -- you are talking	[REDACTED]
20	about?	[REDACTED]
21	MR. PIFKO: If you want to --	[REDACTED]
22	MS. McENROE: I understand you're	[REDACTED]
23	asking questions, but you're way beyond	[REDACTED]
24	the scope. She already gave you	[REDACTED]
	Page 147	Page 149
1	testimony, this isn't part of our	[REDACTED]
2	suspicious order monitoring program.	[REDACTED]
3	Where is your basis for asking the	[REDACTED]
4	question?	[REDACTED]
5	MR. PIFKO: Are you done	[REDACTED]
6	speaking? Are you done speaking?	[REDACTED]
7	MS. McENROE: Are you just not	[REDACTED]
8	going to tell me?	[REDACTED]
9	MR. PIFKO: You're interrupting	[REDACTED]
10	the deposition. Okay?	[REDACTED]
11	MS. McENROE: Are you not going	[REDACTED]
12	to tell me?	[REDACTED]
13	MR. PIFKO: You can object to	[REDACTED]
14	form. You can object to scope. Other	[REDACTED]
15	than that, you need to be quiet.	[REDACTED]
16	MS. McENROE: Well, I'm going to	[REDACTED]
17	take that as a concession that you don't	[REDACTED]
18	have a 30(b)(6) topic, so a full --	[REDACTED]
19	MR. PIFKO: I'm not conceding	[REDACTED]
20	anything.	[REDACTED]
21	MS. McENROE: -- line of	[REDACTED]
22	questioning is improper.	[REDACTED]
23	MR. PIFKO: I'm asking my	[REDACTED]
24	questions. Okay? We can fight about the	[REDACTED]

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Term	Percentage (%)
Global warming	95
Green energy	92
Carbon footprint	88
Sustainable development	85
Renewable energy	82
Eco-friendly	80
Clean energy	78
Green technology	75
Environmental protection	72
Climate change	68
Green products	65
Energy efficiency	62
Recycling	58
Organic food	55
Bio-degradable	52
Green building	48
Green infrastructure	45

A horizontal bar chart illustrating the distribution of 1000 samples across 15 different categories. The y-axis lists the categories, and the x-axis represents the count of samples, ranging from 0 to 1000. The bars are black, and the chart includes a vertical dashed grid for easier value estimation.

Category	Approximate Sample Count
1	100
2	150
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4	100
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7	100
8	100
9	100
10	100
11	100
12	100
13	100
14	100
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<p>1 reason why a prescriber should prescribe 2 those three medications for one patient 3 at one time.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. Would you also look at the nature 6 of the patients when you ran some of this 7 prescriber level analysis?</p> <p>8 MS. McENROE: Objection to form, 9 objection to scope.</p> <p>10 THE WITNESS: We would look at 11 patients if one -- when we ran our 12 analysis, if one patient stood out, we 13 would look at a particular patient, yes.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. Would you look at the actual 16 scripts that were written?</p> <p>17 MS. McENROE: Objection to form, 18 objection to scope.</p> <p>19 THE WITNESS: We would look at 20 original scripts as well.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. Would you look at the conditions 23 for which the prescription was being written?</p> <p>24 MS. McENROE: Objection to form,</p>	<p>1 THE WITNESS: We would look at 2 the patient profile and look at the type 3 of the prescriber and review it.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. Would you look at the physical 6 location of the prescriber in relationship to the 7 patient?</p> <p>8 MS. McENROE: Objection to form, 9 objection to scope.</p> <p>10 THE WITNESS: We could look at 11 that, yes.</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. You would agree that one red flag 14 is if you have patients from out of the area 15 filling a prescription, that could be a red flag?</p> <p>16 MS. McENROE: Objection to form, 17 objection to scope.</p> <p>18 THE WITNESS: Patients traveling 19 distance to get a prescription filled 20 could be a red flag or it may not be a 21 red flag.</p> <p>22 BY MR. PIFKO:</p> <p>23 Q. Would you agree that -- in what 24 situation would it be a red flag?</p>
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<p>1 objection to scope.</p> <p>2 THE WITNESS: We would look if 3 there was a description.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. Okay. But you wouldn't -- what 6 would you do -- if there was a description, what 7 would you do with that information?</p> <p>8 MS. McENROE: Objection to form, 9 objection to scope.</p> <p>10 THE WITNESS: It would remain on 11 the prescription.</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. But would you look if there 14 was -- a prescription was being written for a 15 medication that the reason on the prescription 16 seemed unusual to you?</p> <p>17 MS. McENROE: Objection to form, 18 objection to scope.</p> <p>19 THE WITNESS: Yes.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. And what would you do with that 22 information?</p> <p>23 MS. McENROE: Objection to form, 24 objection to scope.</p>	<p>1 MS. McENROE: Objection to form, 2 objection to scope.</p> <p>3 THE WITNESS: It could possibly 4 be a red flag if a patient lived two 5 hours away from a pharmacy and drove by 6 two other pharmacies to get to the 7 pharmacy where they were filling it.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. What about if a doctor is from 10 out of the area and the patient is bringing a 11 script from a far away doctor? Is that a red 12 flag?</p> <p>13 MS. McENROE: Objection to form, 14 objection to scope.</p> <p>15 THE WITNESS: Again, it all 16 depends on the type of doctor, where the 17 patient and the pharmacy is located. 18 There are things to consider if it's, 19 say, Johns Hopkins -- if the doctor is 20 from Johns Hopkins and the patient is 21 filling it on the Eastern Shore of 22 Maryland, I wouldn't -- that may not be a 23 red flag as obviously Johns Hopkins is a 24 medical hub type thing.</p>

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<p>1 BY MR. PIFKO:</p> <p>2 Q. On these occasions when you would</p> <p>3 run these prescriber analyses, would you document</p> <p>4 your findings?</p> <p>5 MS. McENROE: Objection to form,</p> <p>6 objection to scope.</p> <p>7 THE WITNESS: We would maintain a</p> <p>8 file on the doctor.</p> <p>9 Again, this was Sophia, but -- in</p> <p>10 this instance, but if we were reviewing</p> <p>11 doctors, yes, we would maintain a file on</p> <p>12 that doctor.</p> <p>13 BY MR. PIFKO:</p> <p>14 Q. What would that file be called?</p> <p>15 MS. McENROE: Objection to form,</p> <p>16 objection to scope.</p> <p>17 THE WITNESS: The file would be</p> <p>18 the DEA number of the doctor and their</p> <p>19 name.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. Is there some sort of specific</p> <p>22 use that you would do with that file?</p> <p>23 MS. McENROE: Objection to form,</p> <p>24 objection to scope.</p>	<p>1 Q. And what would the nature of the</p> <p>2 visit to the prescriber's office be?</p> <p>3 MS. McENROE: Objection to form,</p> <p>4 objection to scope.</p> <p>5 THE WITNESS: We have all of the</p> <p>6 data in front of us, but we don't know</p> <p>7 what the office looks like, if it's a</p> <p>8 functioning office, if it's in an office</p> <p>9 building that would look like a</p> <p>10 physician's office. And so the PDM and</p> <p>11 the APDM are responsible for sending back</p> <p>12 pictures of the doctor's office if</p> <p>13 possible, looking at the doctor's office</p> <p>14 to determine if there are people walking</p> <p>15 in and out and getting prescriptions</p> <p>16 every five minutes and not what would be</p> <p>17 a normal doctor visit.</p> <p>18 So they would be the eyes and</p> <p>19 ears looking for things like that.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. When you said PDM, you meant</p> <p>22 pharmacy district manager?</p> <p>23 A. Yes.</p> <p>24 Q. And APM is assistant pharmacy</p>
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<p>1 THE WITNESS: We just store it on</p> <p>2 our drives.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. Would there be occasions if you</p> <p>5 found -- I believe you said on certain occasions</p> <p>6 there can be a suspicious prescriber; is that</p> <p>7 correct?</p> <p>8 MS. McENROE: Objection to form,</p> <p>9 objection to scope.</p> <p>10 THE WITNESS: That is correct.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. If you found a prescriber to be a</p> <p>13 suspicious prescriber, what would you do?</p> <p>14 MS. McENROE: Objection to form,</p> <p>15 objection to scope.</p> <p>16 THE WITNESS: If we found a</p> <p>17 suspicious prescriber, we would then look</p> <p>18 at the profile, verify the profile and</p> <p>19 send out a clinic protocol to the field</p> <p>20 teams, the asset protection district</p> <p>21 manager and the pharmacy district</p> <p>22 manager, to go and visit the prescriber's</p> <p>23 office.</p> <p>24 BY MR. PIFKO:</p>	<p>1 manager?</p> <p>2 A. Asset protection.</p> <p>3 Q. Okay. Thank you.</p> <p>4 In connection with those visits,</p> <p>5 would they speak to the doctor?</p> <p>6 MS. McENROE: Objection to form,</p> <p>7 objection to scope.</p> <p>8 THE WITNESS: They would ask to</p> <p>9 speak with office staff or to speak with</p> <p>10 the doctor. They would provide</p> <p>11 information on Rite Aid, such as the</p> <p>12 ability to get a flu shot at Rite Aid,</p> <p>13 things along those lines.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. Would they tell the doctor that</p> <p>16 they were investigating that doctor as a</p> <p>17 potentially suspicious prescriber?</p> <p>18 MS. McENROE: Objection to form,</p> <p>19 objection to scope.</p> <p>20 THE WITNESS: They would not.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. So then at some point this</p> <p>23 inquiry into the suspicious prescriber reaches</p> <p>24 some resolution. Agreed?</p>

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<p>1 MS. McENROE: Objection to form, 2 objection to scope.</p> <p>3 THE WITNESS: Yes.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. If Rite Aid finds that a 6 prescriber is a suspicious prescriber after 7 finishing that investigation, what does it do?</p> <p>8 MS. McENROE: Objection to form, 9 objection to scope.</p> <p>10 THE WITNESS: We have the 11 pictures come back and we have a file of 12 all the data that we've run. And at that 13 point, if there's -- if we believe that 14 it is a suspicious prescriber, we have a 15 committee of three pharmacists at our 16 corporate office that will sit down and 17 look at the data, look at the pictures, 18 and make a determination if that 19 prescriber is a book of business that we 20 wanted or not.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. So ultimately a decision could be 23 made not to service prescriptions from that 24 doctor; is that correct?</p>	<p>1 that states that because of the 2 prescription of oxycodone, or whatever 3 the drug may be, that effective at a 4 certain date, Rite Aid will no longer 5 dispense controlled substance 6 prescriptions under their DEA number.</p> <p>7 BY MR. PIFKO:</p> <p>8 Q. Do they have an appeal process or 9 anything or is that decision final once it's 10 made?</p> <p>11 MS. McENROE: Objection to form, 12 objection to scope.</p> <p>13 THE WITNESS: Typically when we 14 get to that point, they may call and ask 15 for an appeal, but when we reach that 16 decision, that's a very serious decision 17 that we don't take lightly. So typically 18 there is no appeal.</p> <p>19 BY MR. PIFKO:</p> <p>20 Q. To your knowledge, has that 21 happened ever?</p> <p>22 MS. McENROE: Objection to form, 23 objection to scope.</p> <p>24 THE WITNESS: Has what happened?</p>
<p>1 MS. McENROE: Objection to form, 2 objection to scope.</p> <p>3 THE WITNESS: Controlled 4 substance prescriptions, yes.</p> <p>5 BY MR. PIFKO:</p> <p>6 Q. To your knowledge, has that 7 happened on occasion?</p> <p>8 MS. McENROE: Objection to form, 9 objection to scope.</p> <p>10 THE WITNESS: It has.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. And when Rite Aid makes a 13 determination that they're not going to service a 14 prescriber anymore because they deem that 15 prescriber's practice to be sufficiently 16 suspicious, what would they do to implement that 17 decision?</p> <p>18 MS. McENROE: Objection to form, 19 objection to scope.</p> <p>20 THE WITNESS: Once the three 21 pharmacists at the corporate office sign 22 off that it's a book of business that we 23 don't want for the controlled substance, 24 then I notify the prescriber in a letter</p>	<p>1 Page 167</p> <p>1 BY MR. PIFKO: 2 Q. You've made a determine to stop 3 servicing business from a particular prescriber? 4 MS. McENROE: Objection to form, 5 objection to scope. 6 THE WITNESS: Yes, we have.</p> <p>7 BY MR. PIFKO: 8 Q. Do you have a rough estimate 9 about how many times it's happened in your 10 career? 11 MS. McENROE: Objection to form, 12 objection to scope. 13 THE WITNESS: Over 150 times.</p> <p>14 BY MR. PIFKO: 15 Q. That number came rather quickly. 16 You feel like that's a -- 17 A. Very close, yes. 18 MS. McENROE: Objection to form, 19 objection to scope. 20 BY MR. PIFKO: 21 Q. Okay. Do you keep statistics on 22 that somewhere? 23 MS. McENROE: Objection to form, 24 objection to scope.</p>

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1 THE WITNESS: We do.	1 we had a tool that was through IQVIA that
2 BY MR. PIFKO:	2 would provide industry data deidentified
3 Q. That's a statistic that you have	3 for about 87 percent of retail
4 reviewed in the recent past?	4 pharmacists.
5 MS. McENROE: Objection to form,	5 BY MR. PIFKO:
6 objection to scope.	6 Q. Okay. When you found that a
7 THE WITNESS: I'm familiar with	7 store has been servicing a suspicious prescriber,
8 it on a daily basis.	8 have you ever undertaken anything to flag the
9 BY MR. PIFKO:	9 orders from that pharmacy as suspicious?
10 Q. That's something you check every	10 MS. McENROE: Objection to form,
11 day?	11 objection to scope.
12 MS. McENROE: Objection to form,	12 THE WITNESS: Could you repeat
13 objection to scope.	13 the question, please?
14 THE WITNESS: Not every day, but	14 BY MR. PIFKO:
15 at least monthly.	15 Q. So if a store is filling
16 BY MR. PIFKO:	16 prescriptions from a physician who's been
17 Q. Can a doctor get reinstated after	17 determined to be a suspicious prescriber, does
18 they've been terminated?	18 Rite Aid undertake any effort to identify orders
19 MS. McENROE: Objection to form,	19 from that store as suspicious as a result of them
20 objection to scope.	20 being from the suspicious prescriber?
21 THE WITNESS: Yes. A doctor can	21 MS. McENROE: Objection to form.
22 get reinstated.	22 THE WITNESS: One more time, I'm
23 BY MR. PIFKO:	23 sorry.
24 Q. Is there a formal process that	24 BY MR. PIFKO:
Page 171	Page 173
1 they have to follow?	1 Q. If a store is filling
2 MS. McENROE: Objection to form,	2 prescriptions from a prescriber who's been
3 objection to scope.	3 determined to be a suspicious prescriber, does
4 THE WITNESS: The doctor makes a	4 Rite Aid undertake any efforts to identify the
5 request of -- from myself that they would	5 orders that come from that store -- during the
6 like to be reinstated. And then I go in	6 time when that suspicious prescriber was sending
7 and look at the prescriber's history.	7 patients to that store, does Rite Aid undertake
8 So let's say it's been a year	8 any effort to identify those orders as
9 since we shut the doctor off. What then	9 suspicious?
10 happens is he requests to be reinstated a	10 MS. McENROE: Objection to form.
11 year later. I would look at that	11 THE WITNESS: We do not.
12 doctor's history for the year, his	12 BY MR. PIFKO:
13 prescribing pattern for that year, to	13 Q. So Rite Aid does not use any of
14 determine if it has changed from when we	14 the suspicious prescriber information that it may
15 shut the person off.	15 have collected in determining whether an order
16 BY MR. PIFKO:	16 from any location is suspicious. Correct?
17 Q. But you wouldn't have a history	17 MS. McENROE: Objection to form.
18 on the substances, the controlled substances that	18 THE WITNESS: The order has
19 you shut off because you weren't servicing that.	19 already been shipped to the store, so
20 Correct?	20 there's -- that's not incorporated -- the
21 MS. McENROE: Objection to form,	21 suspicious prescriber isn't incorporated
22 objection to scope.	22 in.
23 THE WITNESS: That is not	23 BY MR. PIFKO:
24 correct. We have a tool -- from 2013 on,	24 Q. What about when an investigation

[REDACTED]	Page 178
[REDACTED]	1 Prescribing Painkillers," was marked for
[REDACTED]	2 identification.)
[REDACTED]	3 - - -
[REDACTED]	4 BY MR. PIFKO:
[REDACTED]	5 Q. I'm handing you what was
[REDACTED]	6 previously marked as Novack Exhibit 8 and I'm
[REDACTED]	7 marking here as Hart-30(b)(6) Exhibit 7.
[REDACTED]	8 Please take a moment to review
[REDACTED]	9 this. Note it's double sided.
[REDACTED]	10 Let me know when you're done.
[REDACTED]	11 MS. McENROE: I'm also going to
[REDACTED]	12 make another scope objection for the
[REDACTED]	13 record.
[REDACTED]	14 THE WITNESS: (Reviewing
[REDACTED]	15 document.)
[REDACTED]	16 I'm done.
[REDACTED]	17 BY MR. PIFKO:
[REDACTED]	18 Q. Have you seen this before?
[REDACTED]	19 A. Yes.
[REDACTED]	20 Q. When was the last time you saw
[REDACTED]	21 this?
[REDACTED]	22 A. Within the past several days.
[REDACTED]	23 Q. This is something you reviewed in
[REDACTED]	24 preparing for this deposition?
[REDACTED]	Page 179
[REDACTED]	1 A. Yes.
[REDACTED]	2 Q. Do you see the first sentence
[REDACTED]	3 here above the -- the headline reads, "Akron
[REDACTED]	4 Doctor Pleads Guilty to Illegally Prescribing
[REDACTED]	5 Painkillers."
[REDACTED]	6 Do you see that?
[REDACTED]	7 A. I do.
[REDACTED]	8 Q. It's dated October 20, 2014.
[REDACTED]	9 Do you see that?
[REDACTED]	10 A. I do.
[REDACTED]	11 Q. Do you see the first sentence
[REDACTED]	12 here, it says, "An Akron physician pleaded guilty
[REDACTED]	13 to illegally prescribing hundreds of thousands of
[REDACTED]	14 doses of painkillers and other pills to customers
[REDACTED]	15 for no legitimate medical purpose, even after he
[REDACTED]	16 learned some customers had died from
[REDACTED]	17 overdose-related deaths, law enforcement
[REDACTED]	18 officials said."
[REDACTED]	19 Do you see that?
[REDACTED]	20 A. I do.
[REDACTED]	21 Q. Did Rite Aid institute efforts to
[REDACTED]	22 shut this particular doctor down from its --
[REDACTED]	23 serving his customers?
[REDACTED]	24 MS. McENROE: Objection to form,

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1 objection to scope. 2 THE WITNESS: I don't remember. 3 - - - 4 (Deposition Exhibit No. 5 Hart-30(b)(6)-8, Indictment, Case No.: 6 5:14CR096, was marked for 7 identification.) 8 - - - 9 BY MR. PIFKO: 10 Q. I'm handing you what was 11 previously marked as Novack Exhibit 7 and I've 12 also marked here as Hart-30(b)(6) Exhibit 8. For 13 the record, it's an indictment of Dr. Harper. 14 MS. McENROE: For the record, 15 again, objection as to scope. And can 16 you tie this to any of the 30(b)(6) 17 topics? Because the witness already 18 said -- 19 BY MR. PIFKO: 20 Q. It's dated March 25, 2014. 21 Please take a moment to review 22 this document and let me know when you're done. 23 MS. McENROE: I'm going to take 24 that as a no for purposes of the record.	1 I don't see what paragraph. 2 MR. PIFKO: It's paragraph 1. It 3 continues from the bottom of the first 4 page to the top of the second page. 5 MS. McENROE: And objection to 6 the scope as well. 7 THE WITNESS: I see hydrocodone. 8 BY MR. PIFKO: 9 Q. And specifically it says that Dr. 10 Harper and some of his colleagues, who they refer 11 to as the Harper Drug Trafficking Organization, 12 it says, starting on the first page that they 13 "agreed to illegally distribute hundreds of 14 thousands of doses of prescription painkillers to 15 customers located in the Northern District of 16 Ohio and elsewhere. They did so using ADOLPH 17 HARPER, JR.'S 'medical' offices located in Akron, 18 Ohio, by issuing drug orders purporting to be 19 'prescriptions' for Schedule II controlled 20 substances, primarily oxycodone, oxymorphone, 21 methadone, and amphetamines, Schedule III 22 controlled substances, primarily buprenorphine 23 and hydrocodone, and Schedule IV controlled 24 substances." It continues on.
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1 MR. PIFKO: I'm disagreeing with 2 your characterization. You can object to 3 scope. And I'm not going to answer 4 questions from you. 5 THE WITNESS: (Reviewing 6 document.) 7 BY MR. PIFKO: 8 Q. As an initial matter, have you 9 seen this document before? 10 A. I have. 11 Q. When did you see this? 12 A. The past several days. 13 Q. Is this something you reviewed in 14 connection with preparing for this 30(b)(6) 15 deposition? 16 A. It is. 17 Q. You can feel free to look at it 18 as much as you want to, but I want to just ask 19 you, on the second page here, it notes that Dr. 20 Harper had issues with Schedule III substances. 21 Do you see that? At the top of 22 the second page. 23 MS. McENROE: Objection to form. 24 Where are you looking, Mark? I'm sorry,	1 Do you see that? 2 MS. McENROE: Objection to form, 3 objection to scope. 4 THE WITNESS: I do. 5 BY MR. PIFKO: 6 Q. So you agree that part of this 7 indictment concerns Schedule III substances? 8 MS. McENROE: Objection to form, 9 objection to scope. 10 THE WITNESS: I do. 11 BY MR. PIFKO: 12 Q. And those were substances that 13 Rite Aid self-distributed during this time 14 period. Agree? 15 MS. McENROE: Objection to scope. 16 THE WITNESS: The hydrocodone was 17 distributed by Rite Aid. 18 BY MR. PIFKO: 19 Q. Did Rite Aid ever identify any 20 orders from the pharmacies that serviced Dr. 21 Harper's customers as suspicious? 22 MS. McENROE: Objection to form. 23 THE WITNESS: Could you repeat 24 the question? I'm sorry.

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1 BY MR. PIFKO: 2 Q. Yeah. 3 Did Rite Aid ever identify any 4 orders from the pharmacies that serviced Dr. 5 Harper's customers as suspicious? 6 MS. McENROE: Objection to form. 7 THE WITNESS: To the best of my 8 knowledge, no.	1 Hart-30(b)(6)-9, Press Release, "Rite Aid 2 Corporation and Subsidiaries Agree to Pay 3 \$5 Million in Civil Penalties to Resolve 4 Violations in Eight States of the 5 Controlled Substances Act," 2 pages, was 6 marked for identification.) 7 - - - 8 BY MR. PIFKO:
10 Q. Do you know if Rite Aid was aware 11 of this indictment on or around the time that it 12 occurred?	9 Q. Take a moment to review that. 10 If you recall, there was a brief 11 discussion of this yesterday.
13 MS. McENROE: Object to the form, 14 objection to scope. 15 THE WITNESS: I do not know.	12 MS. McENROE: Again, for the 13 record, objection as to scope as to the 14 line of questioning pertaining to this 15 exhibit as outside the scope of the 16 30(b)(6) topics. 17 THE WITNESS: (Reviewing 18 document.)
17 Q. Does Rite Aid track whether any 18 prescribers and -- who have customers that come 19 to Rite Aid stores are indicted?	19 BY MR. PIFKO: 20 Q. Have you seen this document 21 before?
20 MS. McENROE: Objection to form, 21 objection to scope. 22 THE WITNESS: We do not.	22 A. I have. 23 Q. When was the last time you saw 24 this?
24 BY MR. PIFKO: Q. Does Rite Aid track whether 1 prescribers have lost their licenses?	Page 187
2 MS. McENROE: Objection to form, 3 objection to scope. 4 THE WITNESS: We have a database 5 in our NextGen system that updates the 6 prescriber file on a daily basis. Once a 7 DEA license becomes invalid, that license 8 becomes invalid in our system and no 9 prescriptions can be dispensed under that 10 prescriber's DEA number. It's a national 11 database that's out there.	1 A. Within the last several days. 2 Q. This is a document that you 3 reviewed in preparing for your 30(b)(6) 4 deposition? 5 A. Yes. 6 Q. Can you tell me what this is? 7 MS. McENROE: Objection to form, 8 objection to scope. 9 THE WITNESS: It's an 10 announcement of a settlement agreement 11 between Rite Aid and the Drug Enforcement 12 Administration from 2009.
12 BY MR. PIFKO: Q. How long has that been in place? 14 MS. McENROE: Objection to scope. 15 THE WITNESS: I'm going to say 16 2000 -- late 2000s, early 2000 -- late 17 2000s, like '9, '10, '11. That's just 18 speculation. It could have been there 19 before that, but... 20 BY MR. PIFKO: Q. I'm handing you what's marked as 22 Hart-30(b)(6) Exhibit 9. 23 - - - 24 (Deposition Exhibit No.	13 BY MR. PIFKO: Q. Does this refresh your recollection about when Rite Aid instituted the system that it uses to check whether prescribers' DEA licenses are invalid? 18 MS. McENROE: Objection to form, 19 objection to scope. 20 THE WITNESS: I don't know that 21 that coincides. I couldn't say that for 22 sure. 23 BY MR. PIFKO: Q. You agree this happened in 2009?

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<p>1 It says here -- it's dated -- this press release 2 is dated January 12, 2009. Do you agree? 3 MS. McENROE: Objection to form, 4 objection to scope. 5 THE WITNESS: I do.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. And you testified that you 8 believe that Rite Aid instituted its efforts to 9 check prescriber licenses sometime in 2009, '10 10 or '11; is that correct?</p> <p>11 MS. McENROE: Objection to form. 12 THE WITNESS: I said that was -- 13 I will correct the record then. 14 There was a system in place to 15 check licenses prior to that. There was 16 enhancement to the system as well.</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. The enhancement was sometime in 19 2009, '10 or '11?</p> <p>20 MS. McENROE: Objection to form. 21 THE WITNESS: Again, I don't know 22 the date line of that. I don't have that 23 knowledge.</p> <p>24 BY MR. PIFKO:</p>	<p>1 THE WITNESS: I see that. 2 BY MR. PIFKO: 3 Q. Do you agree that that was part 4 of the scope of the settlement agreement? 5 MS. McENROE: Objection to form, 6 objection to scope. 7 THE WITNESS: I do.</p> <p>8 BY MR. PIFKO: 9 Q. It also says that, "Rite Aid 10 failed to notify the DEA in a timely manner of 11 significant thefts and losses of controlled 12 substances, thus permitting the diversion of 13 controlled substances to continue and undermining 14 DEA's ability to investigate such thefts...or 15 losses."</p> <p>16 Do you see that? 17 MS. McENROE: Objection to form, 18 objection to scope. 19 THE WITNESS: I do.</p> <p>20 BY MR. PIFKO: 21 Q. Do you agree that that was part 22 of the 2009 settlement?</p> <p>23 MS. McENROE: Objection to form, 24 objection to scope.</p>
<p style="text-align: center;">Page 191</p> <p>1 Q. Was that made as a result of this 2 settlement? 3 MS. McENROE: Objection to form, 4 objection to scope. 5 THE WITNESS: It was not.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. There are some bullet points here 8 about halfway down the page. 9 Do you see those?</p> <p>10 A. I do. 11 Q. It talks about some of the 12 alleged violations that occurred in connection 13 with this settlement. 14 Do you see that? 15 A. I do. 16 MS. McENROE: Objection. 17 BY MR. PIFKO:</p> <p>18 Q. One of them is that "Rite Aid 19 knowingly filled prescriptions for controlled 20 substances that were not issued for a legitimate 21 medical purpose pursuant to a valid 22 physician-patient relationship." 23 Do you see that? 24 MS. McENROE: Objection to scope.</p>	<p style="text-align: center;">Page 193</p> <p>1 THE WITNESS: I do. 2 BY MR. PIFKO: 3 Q. It also says, "Rite Aid failed to 4 properly execute DEA forms used to ensure that 5 the amount of Schedule II drugs ordered by Rite 6 Aid were actually received." 7 Do you see that? 8 MS. McENROE: Objection to form, 9 objection to scope. 10 THE WITNESS: I do.</p> <p>11 BY MR. PIFKO: 12 Q. Was that part of the settlement 13 as well? 14 MS. McENROE: Objection to form, 15 objection to scope. 16 THE WITNESS: That was part of 17 the settlement. 18 It should be noted that the Rite 19 Aid distribution center in Perryman was 20 not included or mentioned in the 21 settlement agreement.</p> <p>22 BY MR. PIFKO: 23 Q. It says here in the paragraph 24 after those bullet points, part of the last</p>

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<p>1 sentence, that accountability audits reflected "a 2 pattern of non-compliance with the requirements 3 of the Controlled Substances Act and federal 4 regulations that lead to the diversion of 5 controlled substances."</p> <p>6 Do you see that?</p> <p>7 MS. McENROE: Objection to form, 8 objection to scope.</p> <p>9 THE WITNESS: You lost me on that 10 one.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. It's highlighted on the screen 13 for you.</p> <p>14 A. Oh, okay. Sorry.</p> <p>15 I do.</p> <p>16 Q. Do you agree that that was part 17 of the settlement?</p> <p>18 MS. McENROE: Objection to form, 19 objection to scope.</p> <p>20 THE WITNESS: It was.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. There's a quote here from the DEA 23 acting administrator, two paragraphs down, second 24 to last paragraph on the first page there.</p>	<p>1 question? 2 BY MR. PIFKO: 3 Q. Yeah. 4 Like, for example, the settlement 5 concerned Rite Aid knowingly filling 6 prescriptions for controlled substances that were 7 not issued for a legitimate medical purpose 8 pursuant to a valid physician-patient 9 relationship.</p> <p>10 Do you see that?</p> <p>11 MS. McENROE: Objection to form, 12 objection to scope.</p> <p>13 THE WITNESS: I do.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. Did Rite Aid identify any 16 suspicious orders as a result of prescriptions 17 that were filled that were not issued for a 18 legitimate medical purpose?</p> <p>19 MS. McENROE: Objection to form.</p> <p>20 THE WITNESS: We did not.</p> <p>21 MR. PIFKO: All right. We can 22 take a break.</p> <p>23 THE WITNESS: Wait.</p> <p>24 THE VIDEOGRAPHER: Going off the</p>
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<p>1 It says, at the bottom of that 2 paragraph, "Our nation's pharmacies must play a 3 major role in the fight against drug abuse, so 4 that together we can protect public health and 5 keep our communities safe."</p> <p>6 Do you see that?</p> <p>7 MS. McENROE: Objection to form, 8 objection to scope.</p> <p>9 THE WITNESS: I do.</p> <p>10 BY MR. PIFKO:</p> <p>11 Q. Do you agree with that statement?</p> <p>12 MS. McENROE: Objection to form, 13 objection to scope.</p> <p>14 THE WITNESS: I do.</p> <p>15 MS. McENROE: Mark, when you get 16 a chance, we've been going about an hour 17 for a break.</p> <p>18 MR. PIFKO: Yeah.</p> <p>19 BY MR. PIFKO:</p> <p>20 Q. Did Rite Aid identify any 21 suspicious orders as a result of any of the 22 allegations in connection with the settlement?</p> <p>23 MS. McENROE: Objection to form.</p> <p>24 THE WITNESS: Can you repeat the</p>	<p>1 record at 2 -- 2 THE WITNESS: Wait, wait. May I 3 make a comment also, though? 4 As part of the press release, it 5 does state that "The settlement agreement 6 is neither an admission of liability by 7 Rite Aid nor a concession by the United 8 States that its claims" were not founded. 9 Thank you.</p> <p>10 THE VIDEOGRAPHER: Going off the 11 record at 2:08 p.m. 12 - - - 13 (A recess was taken from 14 2:08 p.m. to 2:23 p.m.) 15 - - - 16 THE VIDEOGRAPHER: Going back on 17 the record at 2:23 p.m. 18 - - - 19 (Deposition Exhibit No. 20 Hart-30(b)(6)-10, Order of the State 21 Board of Pharmacy, Docket Number 22 D-110127-163, was marked for 23 identification.) 24 - - -</p>

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<p>1 BY MR. PIFKO:</p> <p>2 Q. I'm handing you what's marked as</p> <p>3 Exhibit 10.</p> <p>4 For the record, this is an order</p> <p>5 from the Ohio State Board of Pharmacy. The</p> <p>6 document itself is four pages. Take a moment to</p> <p>7 review it. Let me know when you're ready.</p> <p>8 The part I consider to be the</p> <p>9 document, just so you can understand, is this</p> <p>10 docket number D-110127-163, concerning Marcus --</p> <p>11 or Brian Marcus Kins.</p> <p>12 MS. McENROE: Starting in the</p> <p>13 middle of the first page?</p> <p>14 MR. PIFKO: Yeah.</p> <p>15 MS. McENROE: And then going</p> <p>16 until where, Mark?</p> <p>17 MR. PIFKO: It continues onto the</p> <p>18 last page, but only the top quarter of</p> <p>19 the last page.</p> <p>20 MS. McENROE: Where it says</p> <p>21 11:30 a.m.?</p> <p>22 MR. PIFKO: Yes.</p> <p>23 MS. McENROE: For the record, I'm</p> <p>24 going to object to this document and the</p>	<p>1 does work for Rite Aid?</p> <p>2 A. Yes.</p> <p>3 Q. When one serves on the Board of</p> <p>4 Pharmacy, is that concurrent with him working for</p> <p>5 Rite Aid?</p> <p>6 A. Yes.</p> <p>7 Q. So he still holds that -- does</p> <p>8 this Kevin Mitchell still work for Rite Aid?</p> <p>9 A. Yes. This Kevin Mitchell left</p> <p>10 from Rite Aid, went to work for the board, and</p> <p>11 came back to Rite Aid.</p> <p>12 Q. Okay.</p> <p>13 A. So he is currently a pharmacist</p> <p>14 for Rite Aid.</p> <p>15 Q. But he doesn't currently serve on</p> <p>16 the Board of Pharmacy?</p> <p>17 A. No. His term was up.</p> <p>18 Q. At the time that he was sitting</p> <p>19 on the Board of Pharmacy here, did he still work</p> <p>20 for Rite Aid?</p> <p>21 A. I don't -- I'm going to say yes,</p> <p>22 but again, my recollection could be wrong. But</p> <p>23 it looks around the time frame, yes.</p> <p>24 Q. Does anyone else who is a member</p>
<p style="text-align: center;">Page 199</p> <p>1 line of questioning that will be related</p> <p>2 to it as beyond the scope and not being</p> <p>3 tied to one of the topics.</p> <p>4 MR. PIFKO: You haven't heard the</p> <p>5 questions yet.</p> <p>6 MS. McENROE: I know. Just in</p> <p>7 terms of the document.</p> <p>8 THE WITNESS: (Reviewing</p> <p>9 document.)</p> <p>10 Okay.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. Have you seen this before?</p> <p>13 A. I have not.</p> <p>14 Q. It mentions here, as an aside,</p> <p>15 Kevin Mitchell here as being a member of the</p> <p>16 board of the Ohio Board of Pharmacy.</p> <p>17 I assume that's not the same</p> <p>18 Kevin Mitchell who works at Rite Aid?</p> <p>19 A. Okay.</p> <p>20 Q. Is it?</p> <p>21 A. This Kevin Mitchell is a</p> <p>22 pharmacist for Rite Aid in Ohio, not the Kevin</p> <p>23 Mitchell that's involved in this case.</p> <p>24 Q. Okay. So this Kevin Mitchell</p>	<p style="text-align: center;">Page 201</p> <p>1 of the board reflected here in that section under</p> <p>2 introduction work for Rite Aid?</p> <p>3 MS. McENROE: Objection, scope.</p> <p>4 THE WITNESS: No.</p> <p>5 BY MR. PIFKO:</p> <p>6 Q. Do you know who Michael Mone is?</p> <p>7 A. Yes.</p> <p>8 Q. Who is he?</p> <p>9 A. Michael Mone works for Cardinal.</p> <p>10 Q. Do you know what he does for</p> <p>11 Cardinal?</p> <p>12 A. He is an attorney and a</p> <p>13 pharmacist and does regulatory affairs.</p> <p>14 Q. Do you know if he was employed by</p> <p>15 Cardinal at the time that he sat on the Board of</p> <p>16 Pharmacy here?</p> <p>17 MS. McENROE: Objection to scope.</p> <p>18 THE WITNESS: I don't know his</p> <p>19 employment.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. How do you know who Mr. Mone is?</p> <p>22 A. I am on the Pennsylvania State</p> <p>23 Board of Pharmacy here in the state, and I</p> <p>24 interact with Mr. Mone on a routine basis at NABP</p>

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<p>1 meetings, National Association of Boards of 2 Pharmacy meetings, or district -- NABP district 3 meetings and occasionally at NACDS meetings. 4 Q. In connection with those kind of 5 meetings, do you meet with any other distributors 6 of pharmaceutical products?</p> <p>7 MS. McENROE: Objection to form, 8 objection to scope.</p> <p>9 THE WITNESS: Not really. And 10 Michael and I are there as members of the 11 Board of Pharmacy. We are not meeting on 12 behalf of our jobs.</p> <p>13 BY MR. PIFKO:</p> <p>14 Q. So, to your knowledge, you don't 15 meet with, for example, anyone who works for 16 AmeriSource Bergen at those meetings?</p> <p>17 MS. McENROE: Objection, form, 18 objection to scope.</p> <p>19 THE WITNESS: There could be 20 someone at one of those meetings. I 21 don't know a lot of people from 22 AmeriSource Bergen since we don't -- Rite 23 Aid doesn't do business with them.</p> <p>24 BY MR. PIFKO:</p>	<p>1 objection to scope.</p> <p>2 THE WITNESS: Not off the top of 3 my head, no.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. Do you know if any of the 6 defendants in this litigation are members of the 7 NACDS?</p> <p>8 MS. McENROE: Objection to form, 9 objection to scope.</p> <p>10 THE WITNESS: I would say yes.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. What's the basis for saying that?</p> <p>13 MS. McENROE: Objection to scope.</p> <p>14 THE WITNESS: Reading the 15 documentation as far as the case and 16 industry newsletters and things like 17 that.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. When you say documentation for 20 the case, you've seen documents that have a list 21 of defendants on it, like the interrogatory 22 responses, things like that?</p> <p>23 A. Yeah. Or there could be 24 something published in like a Pharmacy Times or</p>
Page 203	Page 205
<p>1 Q. How about McKesson, is anyone 2 from McKesson at those meeting?</p> <p>3 MS. McENROE: Objection to form, 4 objection to scope.</p> <p>5 THE WITNESS: Occasionally, yes.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. Who from McKesson attends those 8 meetings?</p> <p>9 MS. McENROE: Objection to form, 10 objection to scope.</p> <p>11 THE WITNESS: I don't remember 12 who from McKesson. I apologize.</p> <p>13 BY MR. PIFKO:</p> <p>14 Q. How about from any of the 15 manufacturers, do you know if there are people at 16 those meetings who work for drug manufacturers?</p> <p>17 MS. McENROE: Objection to form, 18 objection to scope.</p> <p>19 THE WITNESS: At the NACDS 20 meetings? There are drug manufacturers 21 that are members of NACDS, yes.</p> <p>22 BY MR. PIFKO:</p> <p>23 Q. Do you know which ones?</p> <p>24 MS. McENROE: Objection to form,</p>	<p>1 something like that.</p> <p>2 Q. So you're talking about -- to the 3 extent there's been media coverage of the case 4 and you see who's involved, that's what you're 5 talking about?</p> <p>6 MS. McENROE: Objection to form, 7 objection to scope.</p> <p>8 THE WITNESS: Yes.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. Okay. Turning back to this 11 particular Exhibit 10, this incident here, are 12 you familiar with this pharmacist, Mr. Kins?</p> <p>13 MS. McENROE: Objection to form.</p> <p>14 Objection to form, objection to scope.</p> <p>15 THE WITNESS: I am not.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. If you turn to the second page, 18 there's a heading "Findings of Fact."</p> <p>19 Do you see that?</p> <p>20 A. I do.</p> <p>21 Q. There's numbered paragraphs there 22 with parentheses.</p> <p>23 Do you see that? Like 1, 2?</p> <p>24 A. Yes.</p>

Page 206	Page 208
<p>1 Q. Paragraph 1, towards the bottom, 2 it says that Mr. Kins was the Responsible 3 Pharmacist at Rite Aid Pharmacy #4764 in 4 Broadview Heights, Ohio.</p> <p>5 Do you see that?</p> <p>6 MS. McENROE: Objection to scope.</p> <p>7 THE WITNESS: I do.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. Do you know what the term 10 "responsible pharmacist" means?</p> <p>11 MS. McENROE: Objection to scope.</p> <p>12 THE WITNESS: I do.</p> <p>13 BY MR. PIFKO:</p> <p>14 Q. What does that mean?</p> <p>15 A. It means that is the pharmacist 16 in charge, the head pharmacist for the store.</p> <p>17 Q. Okay. And that's what I was 18 going to ask you, is -- so there's a hierarchy of 19 the pharmacists who work at any particular store?</p> <p>20 MS. McENROE: Objection to form, 21 objection to scope.</p> <p>22 THE WITNESS: In -- there is a 23 pharmacist that's in charge or the 24 pharmacist that's responsible for the</p>	<p>1 Q. We talked about -- I forget the 2 term you used now -- the front of the store?</p> <p>3 A. Front end?</p> <p>4 Q. Front end and the pharmacy.</p> <p>5 Right?</p> <p>6 A. Right.</p> <p>7 Q. So those operations -- there's 8 some degree of separation between those 9 operations at a store. Correct?</p> <p>10 MS. McENROE: Objection to form, 11 objection to scope.</p> <p>12 THE WITNESS: That is correct.</p> <p>13 BY MR. PIFKO:</p> <p>14 Q. Okay. And somebody at the 15 pharmacy is responsible for the profit and loss 16 operations of the pharmacy. Correct?</p> <p>17 MS. McENROE: Objection to form, 18 objection to scope.</p> <p>19 THE WITNESS: That is correct.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. And is that the pharmacist in 22 charge?</p> <p>23 MS. McENROE: Objection to scope.</p> <p>24 THE WITNESS: That is correct.</p>
<p style="text-align: center;">Page 207</p> <p>1 recordkeeping. And then there could be a 2 staff pharmacist or a floater pharmacist 3 that may work in the store.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. And so you just alluded to some 6 of it, but the responsibilities of the pharmacist 7 in charge include recordkeeping and what else?</p> <p>8 MS. McENROE: Objection to form, 9 objection to scope.</p> <p>10 THE WITNESS: Typically the 11 pharmacist in charge is of staffing and 12 maintenance of prescriptions and that.</p> <p>13 BY MR. PIFKO:</p> <p>14 Q. I believe in Sophia Lai's 15 deposition it was discussed that she had profit 16 and loss responsibility for the pharmacy 17 operations at her pharmacy at one point.</p> <p>18 Does the pharmacist in charge 19 have that kind of responsibility as well?</p> <p>20 MS. McENROE: Objection to form, 21 objection to scope.</p> <p>22 THE WITNESS: Can you repeat the 23 question?</p> <p>24 BY MR. PIFKO:</p>	<p style="text-align: center;">Page 209</p> <p>1 BY MR. PIFKO:</p> <p>2 Q. So in this particular case, Mr. 3 Kins was in charge of the profit and loss of this 4 particular Rite Aid, 4764; is that correct?</p> <p>5 MS. McENROE: Objection to form, 6 objection to scope.</p> <p>7 THE WITNESS: That is correct.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. It says here under the second 10 paragraph of "Findings of Fact" that Mr. Kins "is 11 addicted to or abusing drugs."</p> <p>12 Do you see that?</p> <p>13 A. I do.</p> <p>14 Q. Do you have any reason to dispute 15 that finding?</p> <p>16 MS. McENROE: Objection to form, 17 objection to scope.</p> <p>18 THE WITNESS: I do not.</p> <p>19 BY MR. PIFKO:</p> <p>20 Q. If you go to the next page, well, 21 starting at the bottom of the second page and 22 continuing to the third page, it says, "Brian 23 Marcus Kins has admitted to Board agents that he 24 is addicted to controlled substances; that Brian</p>

Page 210	Page 212
1 Marcus Kins has stolen controlled substances from 2 his employer for personal abuse;" and "that Brian 3 Marcus Kins altered prescriptions to obtain 4 controlled substances for his abuse and to sell." 5 Do you see that?	[REDACTED]
6 A. I do.	[REDACTED]
7 Q. Do you have any reason to dispute 8 those findings of fact in here?	[REDACTED]
9 MS. McENROE: Objection to form, 10 objection to scope.	[REDACTED]
11 THE WITNESS: I do not.	[REDACTED]
12 BY MR. PIFKO:	[REDACTED]
13 Q. Did Rite Aid ever report any 14 suspicious orders from store Rite Aid 4764 while 15 Mr. Kins was the responsible pharmacist?	[REDACTED]
16 MS. McENROE: Objection to form.	[REDACTED]
17 THE WITNESS: We did not report 18 any suspicious orders.	[REDACTED]
19 BY MR. PIFKO:	[REDACTED]
20 Q. Does Rite Aid have a process of 21 disciplining an employee or terminating them when 22 they have a Board of Pharmacy action brought 23 against them?	[REDACTED]
24 MS. McENROE: Objection to form,	[REDACTED]
Page 211	Page 213
1 objection to scope. 2 THE WITNESS: Any time an 3 employee diverts controlled substances, 4 they would be terminated and Rite Aid 5 would turn that individual into the state 6 Board of Pharmacy.	1 THE WITNESS: That would be part 2 of the asset protection's investigation 3 into the theft.
7 BY MR. PIFKO: 8 Q. Other than terminating them, is 9 there any other investigation with respect to the 10 order history at that store that would occur in 11 connection with a finding that a pharmacist in 12 charge or any other pharmacist diverted 13 controlled substances?	4 BY MR. PIFKO: 5 Q. And what would be the outcome if 6 they found that there was theft?
14 MS. McENROE: Objection to form, 15 objection to scope. 16 THE WITNESS: Rite Aid would 17 conduct an accountability of all of the 18 drugs that entered into the pharmacy 19 in -- or dispensed to determine if there 20 was a loss of controlled substances.	7 MS. McENROE: Objection to form, 8 objection to scope. 9 THE WITNESS: If there was theft 10 and the loss of drugs, the loss would be 11 reported to the Ohio Board of Pharmacy 12 and to the Drug Enforcement 13 Administration.
21 BY MR. PIFKO: 22 Q. By loss, you mean theft? 23 A. Theft. 24 Q. What if a pharmacist doesn't	14 BY MR. PIFKO: 15 Q. But Rite Aid wouldn't make any 16 reports concerning suspicious orders. Correct? 17 MS. McENROE: Objection to form, 18 objection to scope. 19 THE WITNESS: We would not make a 20 report of a suspicious order.
	21 BY MR. PIFKO: 22 Q. Would Rite Aid make any 23 adjustments to its auto replenishment system if 24 it knew that, for example, in this case, that the

Page 214	Page 216
<p>1 pharmacist was stealing prescriptions for 2 personal use or selling them to others? 3 MS. McENROE: Objection to form. 4 THE WITNESS: We would not adjust 5 the auto replenishment.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. So when it's conducting its 8 analysis of [REDACTED] and the like, it's 9 including that conduct as well, potentially. 10 Correct?</p> <p>11 MS. McENROE: Objection to form. 12 THE WITNESS: It would be 13 including the prescriptions that were 14 fraudulently dispensed, because they 15 would be through the system. So yes.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. I'm handing you what's been 18 marked as Hart-30(b)(6) Exhibit 11.</p> <p>19 - - -</p> <p>20 (Deposition Exhibit No. 21 Hart-30(b)(6)-11, Order of the State 22 Board of Pharmacy Docket Number 23 D-100621-134, was marked for 24 identification.)</p>	<p>1 Q. Have you seen this before? 2 A. I have not. 3 Q. Do you know who Henry Kozik is? 4 A. A pharmacist, yes. 5 Q. Someone who was employed by Rite 6 Aid?</p> <p>7 MS. McENROE: Objection to scope. 8 THE WITNESS: Based on the order, 9 yes.</p> <p>10 BY MR. PIFKO:</p> <p>11 Q. The order has a number of 12 findings of fact concerning thefts committed by 13 Mr. Kozik on various dates, specifically 14 identifying various thefts of product that he 15 made.</p> <p>16 Do you see that?</p> <p>17 MS. McENROE: Objection to form, 18 objection to scope.</p> <p>19 THE WITNESS: I do.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. Paragraph 5 also says -- it's on 22 the third page.</p> <p>23 Are you there?</p> <p>24 A. I'm fine.</p>
Page 215	Page 217
<p>1 - - -</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. It's another order of the state 4 Board of Pharmacy. This one's five pages. 5 Direct your attention to the one 6 that begins on the bottom of the first page 7 concerning Henry Kozik, docket number 8 D-100621-134.</p> <p>9 Take a moment to review that and 10 let me know when you're done.</p> <p>11 MS. McENROE: For the record, I'm 12 going to object to the use of this 13 document as being outside the scope of 14 the 30(b)(6) for this deposition.</p> <p>15 THE WITNESS: I have a question. 16 Here it makes note under the 17 State's Exhibit Number 3, "Rite Aid 18 Corporation Letter of Explanation." 19 Is that available to review?</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. I don't have a copy of that with 22 me. Maybe Kevin Mitchell can get it for us. 23 Are you ready?</p> <p>24 A. I am ready.</p>	<p>1 Q. It says, "Henry F. Kozik did, on 2 or about June 2, 2007, knowingly sell a 3 controlled substance when the conduct was not in 4 accordance with Chapters 3719., 4729., and 4731. 5 of the Ohio Revised Code, to wit: Henry F. Kozik 6 gave a female at least 33 hydrocodone/APAP 5/500 7 tablets and at least 43 tablets of 8 hydrocodone/APAP 7.5/750 without a valid 9 prescription from a prescriber and not for a 10 legitimate medical purpose."</p> <p>11 Do you see that?</p> <p>12 MS. McENROE: Objection to scope.</p> <p>13 THE WITNESS: I do.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. To your knowledge, did Rite Aid 16 report any suspicious orders from the pharmacies 17 where Mr. Kozik worked --</p> <p>18 MS. McENROE: Objection to form.</p> <p>19 BY MR. PIFKO:</p> <p>20 Q. -- as a result of these 21 incidents?</p> <p>22 MS. McENROE: Objection to form.</p> <p>23 THE WITNESS: We did not.</p> <p>24 BY MR. PIFKO:</p>

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<p>1 Q. Do you know if Rite Aid conducted 2 an investigation into this conduct?</p> <p>3 MS. McENROE: Objection to scope, 4 objection to form.</p> <p>5 THE WITNESS: An investigation 6 would have been completed by our asset 7 protection team.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. What's the basis for you 10 believing that such an investigation would have 11 occurred?</p> <p>12 MS. McENROE: Objection to scope.</p> <p>13 THE WITNESS: Any theft of 14 controlled substances results in an asset 15 protection investigation.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. And if Mr. Kozik was disciplined 18 by the Board of Pharmacy, Rite Aid would know 19 about that?</p> <p>20 MS. McENROE: Objection to form, 21 objection to scope.</p> <p>22 THE WITNESS: Yes, we would know. 23 We have a system that we use to verify 24 our associates and their licenses to make</p>	<p>1 THE WITNESS: They did not.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. Did Rite Aid have any policy 4 whereby if a pharmacist conducted such an 5 investigation, they needed to report that back up 6 to the distribution center?</p> <p>7 MS. McENROE: Objection to form.</p> <p>8 THE WITNESS: The pharmacist, if 9 they did an investigation, would report 10 that to their pharmacy district manager 11 or their asset protection district 12 manager, not to the distribution center.</p> <p>13 BY MR. PIFKO:</p> <p>14 Q. Would anybody in that chain 15 ultimately provide information that there was a 16 potential red flag to the distribution center?</p> <p>17 MS. McENROE: Objection to form.</p> <p>18 THE WITNESS: Typically, no.</p> <p>19 BY MR. PIFKO:</p> <p>20 Q. I'm handing you a document that 21 was previously marked in Mr. Belli's deposition 22 as Exhibit 15. And I have marked it as 23 Exhibit 12 to Rite Aid's 30(b)(6) deposition.</p> <p>24 - - -</p>
Page 219	Page 221
<p>1 sure that they remain valid.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. As we discussed with respect to 4 the prior Board of Pharmacy order, with respect 5 to paragraph 5 here, there would not have been 6 any adjustments to Rite Aid's auto replenishment 7 system as a result of this sale to a female of 8 certain hydrocodone tablets without a valid 9 prescription.</p> <p>10 Do you agree?</p> <p>11 MS. McENROE: Objection to form, 12 objection to scope.</p> <p>13 THE WITNESS: There would be no 14 revision.</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. If a pharmacist conducts any due 17 diligence of any suspected red flags, does -- at 18 the time when Rite Aid was self-distributing 19 Schedule III controlled substances, did the 20 distribution center who would sell to that 21 pharmacy have any visibility into the 22 investigation being conducted by the pharmacist?</p> <p>23 MS. McENROE: Objection.</p> <p>24 Objection to form.</p>	<p>1 (Deposition Exhibit No. 2 Hart-30(b)(6)-12, Project Initiation for 3 504 Suspicious Order Monitoring, Bates 4 stamped Rite_Aid_OMDL_0040184 through 5 Rite_Aid_OMDL_0040198, was marked for 6 identification.)</p> <p>7 - - -</p> <p>8 BY MR. PIFKO:               </p>

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[REDACTED]

[REDACTED]
7 - - -
8 (Deposition Exhibit No.
9 Hart-30(b)(6)-13, Email chain, top one
10 dated 2013-08-07, Bates stamped
11 Rite_Aid_OMDL_0024599 and
12 Rite_Aid_OMDL_0024600, was marked for
13 identification.)
14 - - -
15 BY MR. PIFKO:
16 Q. I'm handing you another exhibit
17 concerning this project. You can keep that one
18 with you as well.
19 It's marked as Exhibit
20 Hart-30(b)(6)-13.
21 For the record, Exhibit 13 is
22 Bates labeled Rite_Aid_OMDL_0024599, and it has
23 an attachment which is a spreadsheet, which is
24 Bates labeled Rite_Aid_OMDL_0024600.

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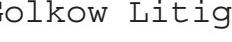
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[REDACTED]

1 Let me know when you're done
2 reading Exhibit 13.
3 A. I'm done reading number 13.
4 Q. Have you seen Exhibit 13 before?
5 A. I have.
6 Q. When was the last time you saw
7 that?
8 A. Within the past few days.
9 Q. This is a document that you
10 reviewed in preparing for your 30(b)(6)
11 deposition?
12 A. It is.
13 Q. When do you believe was the first
14 time you saw this document?
[REDACTED]

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Term	Percentage (%)
Global warming	95
Green energy	92
Sustainable development	88
Clean water	85
Renewable energy	82
Carbon footprint	78
Recycling	75
Biodiversity	72
Organic food	68
Eco-friendly	65
Green technology	62
Conservation	58
Green building	55
Green economy	52
Green infrastructure	48
Green space	45
Green transport	42
Green jobs	38
Green products	35
Green living	32
Green architecture	28
Green design	25
Green products	22
Green infrastructure	18
Green economy	15
Green building	12
Green transport	10
Green jobs	8
Green living	5
Green architecture	3
Green design	2
Green products	1

A horizontal bar chart illustrating the percentage of respondents who have heard of various environmental terms. The y-axis lists the terms, and the x-axis represents the percentage from 0% to 100%.

Term	Percentage (%)
Global warming	98
Green energy	95
Sustainable development	92
Carbon footprint	88
Eco-friendly	85
Renewable energy	82
Green technology	78
Organic food	75
Recycling	72
Green building	68
Green products	65
Green infrastructure	62
Green economy	58
Green space	55
Green transportation	52
Green architecture	48
Green waste	45
Green infrastructure	42
Green energy	38
Green products	35
Green technology	32
Green building	28
Green infrastructure	25
Green economy	22
Green transportation	18
Green architecture	15
Green waste	12
Green infrastructure	8
Green energy	5
Green products	2
Green technology	1
Green building	0

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1 have been speaking about as far as
2 replenishment and billing in our current
3 system. And this would enhance the
4 system.

⁵ BY MR. PIFKO:

6 Q. It says that -- where it says,
7 "Today blanket thresholds are manually enforced
8 at 5,000 dosage units per individual ndc per week
9 per store regardless of dispensing volume or
10 trends."

¹¹ Do you see that?

12 A. Yes.

13 Q. Is that an accurate statement
14 about the system as of when this was written, in
15 August 7, 2013?

¹⁶ MS. McENRQE: Objection to form.

17 THE WITNESS: Yes. Blanket

18 controls were in place of 5,000 dosa
19 units per store.

²⁰ BY MR. PIFKO:

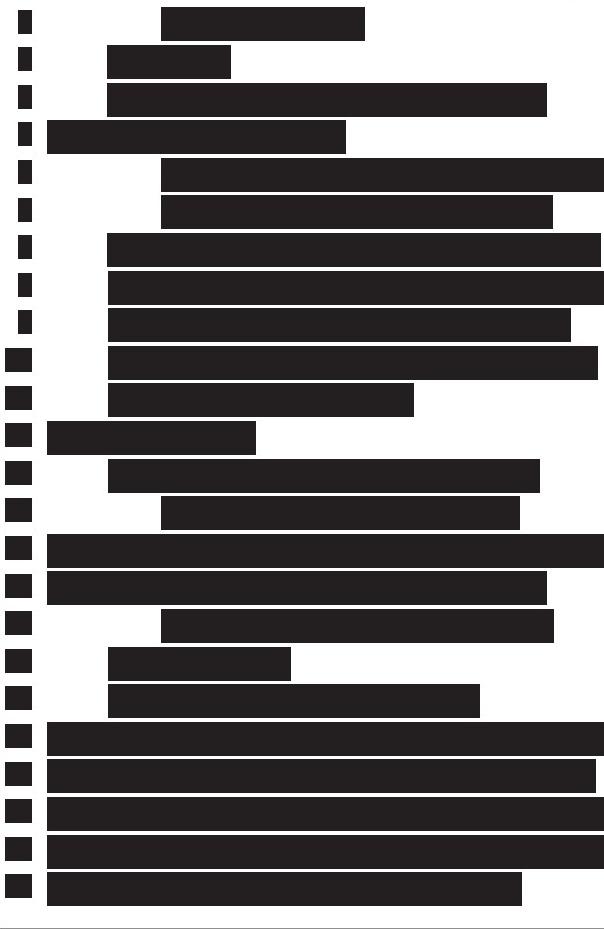
21 Q. Regardless of dispensing volume
22 or trends. Correct?

23 MS. McENROE: Objection to form.

24 THE WITNESS: Correct

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<p>Page 238</p> 	<p>Page 240</p> 
<p>Page 239</p> 	<p>Page 241</p> 

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1 - - -
2 (A recess was taken from
3 3:23 p.m. to 3:46 p.m.)
4 - - -

5 THE VIDEOGRAPHER: Back on the
6 record. The time is 3:46 p.m.

7 BY MR. PIFKO:

8 Q. Let's go back to Exhibit 12.
9 Do you have it in front of you?
10 A. I've got it. Thank you.

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21 MR. PIFKO: We can take a break.
22 MS. McENROE: Thank you.
23 THE VIDEOGRAPHER: Going off the
24 record at 3:23 p.m.

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[REDACTED]

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[REDACTED]

Page 251

[REDACTED]

Page 253

[REDACTED]

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A horizontal bar chart illustrating the distribution of σ values across 15 distinct categories. The y-axis is labeled with category numbers from 1 to 15. The x-axis represents the range of σ , with tick marks at 0, 0.5, 1.0, 1.5, and 2.0. Each category is represented by a black horizontal bar. Category 1 has the longest bar, extending nearly to 2.0. Categories 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, and 15 also have relatively long bars, mostly between 1.5 and 2.0. Categories 8 and 9 have shorter bars, around 1.0 and 0.8 respectively.

Category	Approximate Range of σ
1	1.8 - 2.0
2	1.5 - 1.8
3	1.5 - 1.8
4	1.5 - 1.8
5	1.5 - 1.8
6	1.5 - 1.8
7	1.5 - 1.8
8	0.8 - 1.0
9	0.8 - 1.0
10	1.5 - 1.8
11	1.5 - 1.8
12	1.5 - 1.8
13	1.5 - 1.8
14	1.5 - 1.8
15	1.5 - 1.8

Term	Percentage (%)
Global warming	95
Green energy	92
Sustainable development	88
Clean water	85
Renewable energy	82
Carbon footprint	78
Recycling	75
Biodiversity	72
Organic food	68
Eco-friendly	65
Green technology	62
Climate change	58
Green building	55
Green products	52
Green infrastructure	48
Green economy	45
Green space	42
Green transportation	38
Green architecture	35
Green waste	32
Green building	28
Green energy	25
Green infrastructure	22
Green products	18
Green transportation	15
Green architecture	12
Green waste	8
Green building	5
Green energy	2
Green infrastructure	1
Green products	0

22 BY MR. PIFKO:

23 Q. I want to hand you -- or refer
24 you back to an exhibit that was introduced

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¹ yesterday as Exhibit 15.

2 MS. McENROE: Why don't we make a
3 pile of today's separate a little bit, so
4 that we -- is that okay, Mark? I just
5 don't want to --

6 MR. PIFKO: Well, I'm still
7 looking at those.

8 MS. McENROE: Oh, you're still
9 looking at these? Okay.

10 MR. PIFKO: Yes.

11 MS. McENROE: Okay. Then don't
12 put those away.

13 MR. PIFKO: I just -- I want to
14 direct you to what was marked yesterday
15 as Exhibit 15

MS McENROE: 1-5?

17 MR. PIEJKO: Yeah

18 BY MR PIEKON

BY MR. THOMAS.

20 you?

21 A I do

22

Q. Okay. Do you recall this document?

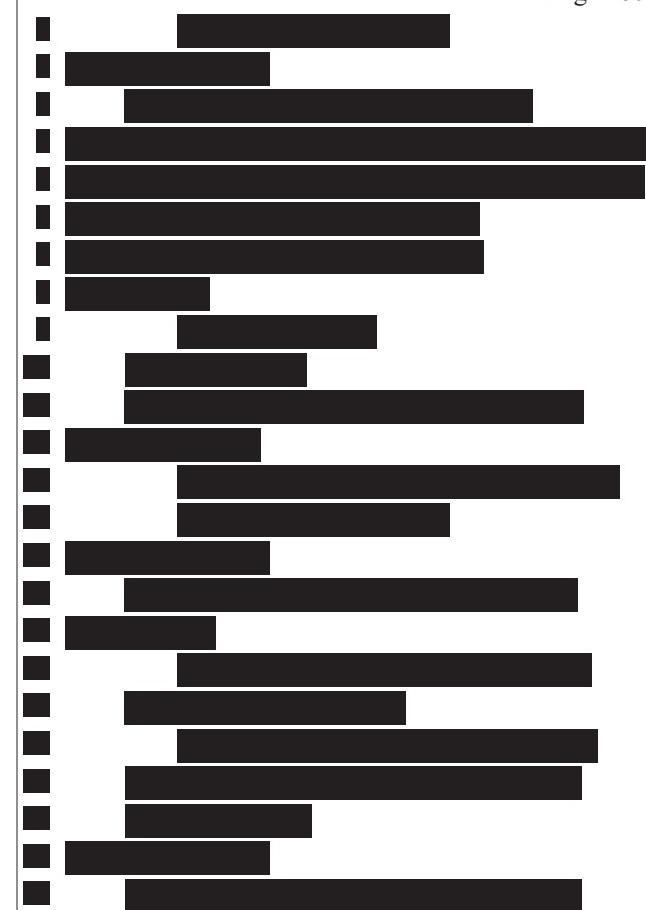
document?

A. I do.

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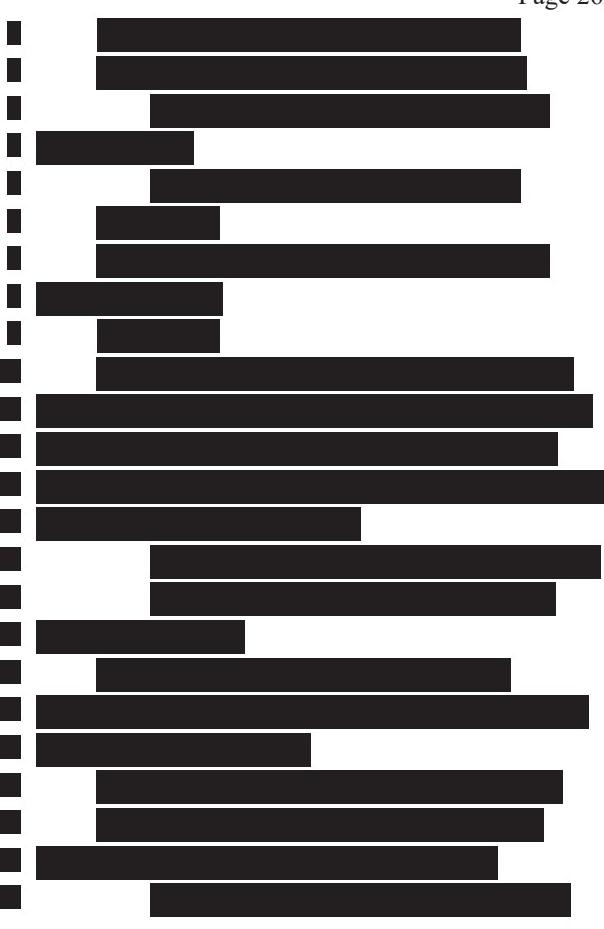
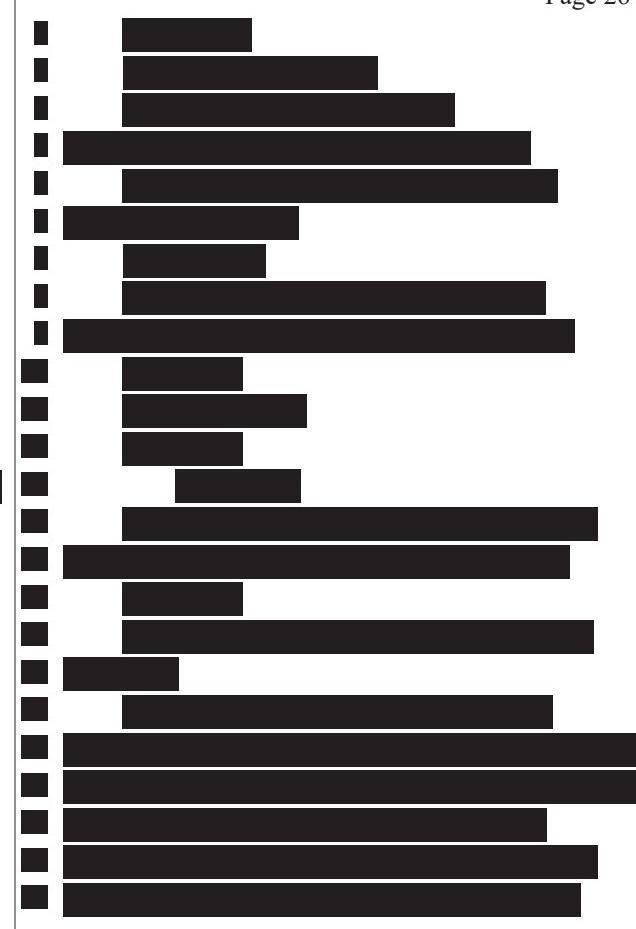


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<p>Page 262</p> 	<p>Page 264</p> 
<p>Page 263</p> 	<p>Page 265</p> 

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Page 268

[REDACTED]

Page 267

Page 269

[REDACTED]

Page 270

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	Page 278	Page 280
1	Hart-30(b)(6)-15, PowerPoint slides,	[REDACTED]
2	Bates stamped Rite_Aid_OMDL_0046067	[REDACTED]
3	through Rite_Aid_OMDL_0046072, was marked	[REDACTED]
4	for identification.)	[REDACTED]
5	- - -	[REDACTED]
6	BY MS. McENROE:	[REDACTED]
7	Q. I hand you what I've marked as	[REDACTED]
8	Exhibit 15.	[REDACTED]
9	Do you recognize this document?	[REDACTED]
10	A. I do.	[REDACTED]
11	Q. What is it?	[REDACTED]
12	[REDACTED]	[REDACTED]
13	[REDACTED]	[REDACTED]
14	[REDACTED]	[REDACTED]
15	[REDACTED]	[REDACTED]
16	[REDACTED]	[REDACTED]
17	[REDACTED]	[REDACTED]
18	[REDACTED]	[REDACTED]
19	[REDACTED]	[REDACTED]
20	[REDACTED]	[REDACTED]
21	[REDACTED]	[REDACTED]
22	- - -	[REDACTED]
23	(Deposition Exhibit No.	[REDACTED]
24	Hart-30(b)(6)-17, Handwritten notes,	[REDACTED]
	Page 279	Page 281
1	[REDACTED]	12/14/10, Bates stamped
2	[REDACTED]	Rite_Aid_OMDL_0046065, was marked for
3	- - -	identification.)
4	(Deposition Exhibit No.	- - -
5	Hart-30(b)(6)-16, Email dated 2010-12-10,	5 (Phone interruption.)
6	Bates stamped Rite_Aid_OMDL_0020381 and	- - -
7	Rite_Aid_OMDL_0020381, was marked for	7 BY MS. McENROE:
8	identification.)	8 Q. Wait until the phone stops
9	- - -	9 ringing. Hold on one second.
10	BY MS. McENROE:	10 Ms. Hart, I handed you what's
11	[REDACTED]	11 been marked as Exhibit Number 17.
12	[REDACTED]	12 A. Yes.
13	[REDACTED]	13 Q. Do you recognize this document?
14	[REDACTED]	[REDACTED]
15	[REDACTED]	[REDACTED]
16	[REDACTED]	[REDACTED]
17	[REDACTED]	[REDACTED]
18	[REDACTED]	[REDACTED]
19	[REDACTED]	[REDACTED]
20	[REDACTED]	[REDACTED]
21	[REDACTED]	[REDACTED]
22	[REDACTED]	[REDACTED]
23	[REDACTED]	[REDACTED]
24	[REDACTED]	[REDACTED]

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□

6 (Deposition Exhibit No. _____)

Hart-30(b)(6)-18, Email dated 2011-01-21,
Bates stamped Rite_Aid_OMDL_0020541 and
Rite_Aid_OMDL_0020542, was marked for
identification.)

¹² BY MS. McENROE:

13 Q. I'm going to hand you what I have

MS. McENROE: I have no further questions. Thank you.

MR. PIFKO: I don't think we have questions, but let me just look at the documents real quick.

MS. McENROE: Let's go off the record real quick.

THE VIDEOGRAPHER: Going off the record, 4:50 p.m.

(A recess was taken from 4:50 p.m. to 4:51 p.m.)

THE VIDEOGRAPHER: Back on the record at 4:51 p.m.

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1

EXAMINATION

1

4 BY MR. PIFKO:

10

Q. I want to direct your attention
to Exhibit 15 that your counsel just introduced
to you.

16

Can you tell me what this is?

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A horizontal bar chart illustrating the percentage of respondents who have heard of various environmental terms. The y-axis lists the terms, and the x-axis represents the percentage from 0% to 100%. The bars are dark grey.

Term	Percentage (%)
Global warming	98
Green energy	95
Sustainable development	92
Clean water	90
Renewable energy	88
Carbon footprint	85
Recycling	82
Biodiversity	78
Organic food	75
Eco-friendly	72
Green technology	68
Green building	65
Green economy	62
Green jobs	58
Green infrastructure	55
Green transportation	52
Green architecture	48
Green products	45
Green energy sources	42
Green buildings	38
Green infrastructure projects	35
Green transportation systems	32
Green architecture designs	28
Green products packaging	25
Green energy policies	22
Green infrastructure funding	18
Green transportation incentives	15
Green architecture regulations	12
Green products standards	8
Green energy subsidies	5
Green infrastructure grants	3
Green transportation grants	2
Green architecture grants	1
Green products grants	0

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1 THE VIDEOGRAPHER: Going off the
2 record. The time is 4:55 p.m.
3 (Witness excused.)
4 (Deposition concluded at
5 approximately 4:55 p.m.)

A horizontal bar chart illustrating the percentage of respondents who have heard of various environmental terms. The y-axis lists the terms, and the x-axis represents the percentage from 0% to 100%. The bars are dark grey.

Term	Percentage
Global warming	98%
Green energy	95%
Sustainable development	92%
Carbon footprint	88%
Eco-friendly	85%
Renewable energy	82%
Green technology	78%
Organic food	75%
Recycling	72%
Bio-degradable	68%
Green building	65%
Green products	62%
Green infrastructure	58%
Green economy	55%
Green space	52%
Green transportation	48%
Green architecture	45%
Green waste	42%
Green energy source	38%
Green energy source	35%
Green energy source	32%
Green energy source	28%
Green energy source	25%
Green energy source	22%
Green energy source	18%
Green energy source	15%
Green energy source	12%
Green energy source	8%
Green energy source	5%
Green energy source	2%
Green energy source	1%
Green energy source	0%

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1	1 - - - - -
2 CERTIFICATE	2 E R R A T A
3	3
4	4 PAGE LINE CHANGE
5 I HEREBY CERTIFY that the witness	5 _____
6 was duly sworn by me and that the deposition is a	6 REASON: _____
7 true record of the testimony given by the	7 _____
8 witness.	8 REASON: _____
9	9 _____
10 It was requested before	10 REASON: _____
11 completion of the deposition that the witness,	11 _____
12 JANET GETZEY HART, have the opportunity to read	12 REASON: _____
13 and sign the deposition transcript.	13 _____
14 ANN MARIE MITCHELL, a Federally	14 REASON: _____
15 Approved Certified Realtime	15 _____
16 Reporter, Registered Diplomate	16 REASON: _____
17 Reporter, Registered Merit Reporter and	17 _____
18 Notary Public	18 REASON: _____
19 (The foregoing certification of	19 _____
20 this transcript does not apply to any	20 REASON: _____
21 reproduction of the same by any means, unless	21 _____
22 under the direct control and/or supervision of	22 REASON: _____
23 the certifying reporter.)	23 _____
24	24 REASON: _____
Page 291	Page 293
1 INSTRUCTIONS TO WITNESS	1
2	2 ACKNOWLEDGMENT OF DEPONENT
3 Please read your deposition over	3
4 carefully and make any necessary corrections.	4 I, _____, do
5 You should state the reason in the appropriate	5 hereby certify that I have read the foregoing
6 space on the errata sheet for any corrections	6 pages, 1 - 293, and that the same is a correct
7 that are made.	7 transcription of the answers given by me to the
8 After doing so, please sign the	8 questions therein propounded, except for the
9 errata sheet and date it.	9 corrections or changes in form or substance, if
10 You are signing same subject to	10 any, noted in the attached Errata Sheet.
11 the changes you have noted on the errata sheet,	11
12 which will be attached to your deposition.	12
13 It is imperative that you return	13 _____
14 the original errata sheet to the deposing	14 JANET GETZEY HART DATE
15 attorney within thirty (30) days of receipt of	15
16 the deposition transcript by you. If you fail to	16
17 do so, the deposition transcript may be deemed to	17 Subscribed and sworn
18 be accurate and may be used in court.	to before me this
19	18 _____ day of _____, 20 _____. 19 My commission expires: _____
20	20 _____
21	21 Notary Public
22	22 _____
23	23 _____
24	24 _____